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ISRAEL AND THE OCCUPIED TERRITORIES INCLUDING THE AREA UNDER THE JURISDICTION OF THE PALESTINIAN AUTHORITY

@Human rights: A year of shattered hopes

INTRODUCTION

In the year since the Israeli Government and the Palestine Liberation Organization (PLO) signed an agreement on 4 May 1994, which set up the Palestinian Authority as an interim authority with jurisdiction over Jericho and part of the Gaza Strip, serious human rights violations have been committed and human rights protection has been given a low priority by both sides.

This report focuses on detention and interrogation procedures by the Israeli and Palestinian authorities after large-scale arrests. In particular, it looks at the use of arbitrary political detention and torture. The lack of action to combat these abuses epitomises the failure to safeguard human rights over the past year.

In this report, Amnesty International is raising human rights violations committed by the Israeli Government and by the Palestinian Authority. Amnesty International does not rank or compare violations of human rights committed by different states or non-governmental entities. It combats violations within its mandate committed by any government, non-governmental entity or political opposition group. With this report, Amnesty International is urging both authorities to place human rights, including the freedom and integrity of the human person, at the heart of all future policies and accords.

In Israel and the Occupied Territories under direct Israeli rule, Israeli forces have arrested more than 6,000 Palestinians, including prisoners of conscience and possible prisoners of conscience, since May 1994, often in mass round-ups following Palestinian suicide bombings and other attacks on Israeli targets. Many of those arrested were reportedly tortured or ill-treated. Secret internal guidelines for interrogation allow Israeli officials to apply "a moderate measure of physical pressure". In October 1994, after a suicide bombing in the heart of Tel Aviv, increased physical pressure appears to have been applied after these guidelines were amended to give an "exceptional dispensation" to the security service during interrogations.

Suspected activists in Islamist organizations have been detained for up to 30 days without access to lawyers and for up to 140 days without access to family. Under interrogation by the General Security Service (GSS)¹, such detainees are commonly hooded and subjected to prolonged sleep deprivation usually while shackled in painful positions. Many allege that they were beaten. Of the more than 6,200 Palestinians tried and convicted in military trials during 1994, many were convicted solely on the basis of confessions or testimonies from fellow-detainees apparently obtained under duress. In general, Israel continues to operate a system of military justice where procedures fall far short of international standards for fair trial.

Other human rights violations have occurred in Israel and the Occupied Territories which are not dealt with in this report. Palestinians have been administratively detained in Ketziot Camp in the Negev Desert. District military commanders may order administrative detention without formal charges. Detainees may seek a judicial review of their detention order and are told the charges against them, but neither they nor their lawyers have any right to know the full evidence against them. On 5 February 1995 the maximum period of administrative detention was extended from six months to one year, renewable.

Over 80 Palestinians have been killed by members of the Israeli security forces since May 1994, many in circumstances suggesting they were victims of extrajudicial executions or other unlawful killings. They include people killed by Israeli undercover units, people killed during riots or demonstrations and those who failed to stop at roadblocks.

More than 30 Lebanese nationals, some abducted from south Lebanon, continue to be held in administrative detention in Israel, some of them since 1985. Some were tried and have already served their sentences; others have never been brought to trial. Over 200 detainees are still held incommunicado without charge or trial in the Khiam detention centre in an area of south Lebanon controlled by Israel. Some have been detained for 10 years in

¹ Also known as *Shin Bet* or *Shabak*; the main force charged with interrogating "security" detainees.

poor conditions and for most of that period have not had access to their families or the International Committee of the Red Cross (ICRC).

In the areas under the jurisdiction of the Palestinian Authority, hundreds of suspected supporters of Islamist groups and real or suspected opponents of the peace process, including prisoners of conscience or possible prisoners of conscience, have been arbitrarily arrested by Palestinian police. Many have been released after a few days but others have been detained without charge or indeed any legal procedures for more than two months. Although no reports of torture have been received regarding suspected opponents of the peace process, other detainees, particularly those suspected of collaboration with the Israeli authorities, offences against morality or drug-related offences, have reportedly been tortured or ill-treated. Detainees have alleged that they were subjected to punches and slaps, severely beaten and subjected to electric shocks. Two have died in custody, possibly as a result of torture.

Other human rights violations have occurred in the areas of the Palestinian Authority which are not detailed in this report. Palestinian security forces have also killed at least 16 Palestinians since May 1994, all in circumstances suggesting unlawful killings. Thirteen of the victims were killed during a demonstration outside the Palestine Mosque in Gaza City. A judicial inquiry was set up, but no result of any official investigation was made public.

In February 1995 the Palestinian Authority established a State Security Court in which military judges may try civilians; its pre-trial and trial procedures fall far short of international fair trial standards.

Amnesty International's concerns

Amnesty International has repeatedly expressed to the Israeli Government its concerns over torture and ill-treatment of detainees. In April 1994 the organization made public a report entitled *Israel and the Occupied Territories: Torture and ill-treatment of political detainees* (AI Index: MDE 15/03/94). The Director of the Foreign Relations and International Organizations Department of the Ministry of Justice, Tamar Gaulan, has responded to letters sent by Amnesty International to the Prime Minister or the Minister of Justice regarding the organization's concerns about torture. These responses have denied that the physical pressure used during interrogation amounts to torture or that interrogation guidelines have been changed. Government responses have not admitted or denied allegations by individual detainees of hooding, beating, prolonged standing or sitting in painful positions and long-term sleep-deprivation. Such treatment, according to international human rights standards ratified by Israel, constitutes torture².

² Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Israel in 1991, states:

The organization has also, over the past year, written to the Palestinian Authority expressing its concern about arbitrary political detentions and torture. No response has yet been received.

During 1994 and 1995 Palestinian armed political groups opposed to the Israeli and Palestinian authorities, and to the peace process in particular, have carried out deliberate and arbitrary killings of civilians. The Islamic Resistance Movement (*Hamas*) has claimed responsibility for at least five suicide bombings and other armed attacks. *Hamas* members also kidnapped and held hostage an Israeli soldier, Nachshon Waxman, who was killed, apparently by his captors, during an attempt to rescue him. Islamic *Jihad*, another Islamist organization, has claimed responsibility for other suicide bombings and killings. Armed Israelis linked to Israeli groups such as *Kach*, opposed to the peace agreement, have also killed and reportedly beaten Palestinian civilians.

Amnesty International opposes human rights abuses by armed political groups, such as the deliberate killing of civilians, hostage-taking and torture. It urges all armed opposition groups in Israel and the Occupied Territories including the areas under Palestinian Authority jurisdiction to end all such abuses and respect human rights and the principles of humanitarian law. These abuses can never be justified and are forbidden by international law. However, no level of abuse committed by armed opposition groups can justify the use of torture and cruel, inhuman or degrading treatment or punishment.

In opposing human rights abuses by governments and political non-governmental entities, including armed opposition groups, Amnesty International takes no political position. Its concerns are with the victims and potential victims and its aim is to promote the observance of international human rights standards and principles of international humanitarian law. It is for this reason that the organization is raising its concerns over detention procedures and torture and calling for respect for human rights to be strongly affirmed and clearly implemented in the peace process.

BACKGROUND

On 4 May 1994 Israel and the PLO signed the Agreement on the Gaza Strip and the Jericho Area in implementation of the 13 September 1993 Declaration of Principles on Interim

"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".

Self-Government Arrangements. The Agreement established the Palestinian Authority with certain legislative and judicial functions. An interim administration was set up in the Palestinian self-governing areas headed by Yasser Arafat, Chairman of the PLO, pending an agreement on Israeli redeployment of its forces and Palestinian elections in the Occupied Territories. The elections, which should have been held by July 1994, according to the Declaration of Principles, have not yet been held and there is as yet no agreement on either the redeployment of Israeli forces or on precisely which areas of the West Bank are to be placed under the Palestinian Authority.

Although the Declaration of Principles contained no specific mention of human rights, Chairman Yasser Arafat told Amnesty International delegates on 2 October 1993 that the PLO was committed to respect all internationally recognized human rights standards and to incorporate them fully into Palestinian legislation. Israel is already bound by international human rights treaties, having ratified on 3 October 1991 the International Covenant Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). The Agreement on the Gaza Strip and the Jericho Area reaffirmed these commitments, stating that:

"Israel and the Palestinian Authority shall exercise their powers and responsibilities pursuant to this Agreement with due regard to internationally- accepted norms and principles of human rights and the rule of law" (Article 14).

The areas placed under the jurisdiction of the Palestinian Authority after May 1994 comprise the Gaza Strip (excluding about 40 percent which contains the Israeli settlements and other directly Israeli-controlled land) with a population of 800,000 and Jericho, with a population of 15,000. The two areas, 100 kilometres apart, were considered to be a first step towards the autonomy of the Occupied Territories, to be joined later by other areas of the West Bank.

Suicide bombings and other attacks on Israeli civilians and military personnel have been followed by closures of the borders between Israel and the Israeli-annexed areas of East Jerusalem and the Golan Heights, and the Occupied Territories of the Gaza Strip

1 Israeli soldiers patrolling inside Ballata refugee camp near Nablus in the Occupied West Bank

and the West Bank³. The main border closures were after 11 October 1994, following the kidnapping of Nachshon Waxman, and after 22 January 1995, following a suicide bombing at Beit Lid; on each occasion the closure was gradually relaxed over a period of more than two months. Shorter border closures of a week or less took place in mid-1994.

During border closures Palestinians registered in the Occupied Territories cannot travel to Israel and annexed East Jerusalem and the Golan Heights; as a result most of those with jobs cannot get to work and a number of sick people cannot reach hospitals for specialised treatment. Most students from Gaza were also prevented during the October closure from travelling to universities in the West Bank.

Opposition to the peace agreement has been maintained by Israeli groups, such as *Kach* and *Kahane Hai* (banned in 1994), as well as Palestinian groups including the Islamist organizations, *Hamas* and Islamic *Jihad*, and groups within the PLO, such as the Popular

³ The Golan Heights and East Jerusalem were annexed by Israel and are therefore officially inside the border.

Front for the Liberation of Palestine (PFLP), the Democratic Front for the Liberation of Palestine (DFLP) and the Fatah Revolutionary Council of Abu Nidal.

2 Palestinians throw stones at Palestinian police during clashes outside the Palestine Mosque on 18 November 1994. Thirteen people were killed when the police opened fire on demonstrators.

Between September 1993 and August 1994 Israel released about 5,400 Palestinian political prisoners from the Occupied Territories. Releases stopped in August 1994 and over 5,000 long-term Palestinian political prisoners, including about 70 Israeli Arabs as well as 20 Syrian Druze originating from the Golan Heights, are now in prisons in Israel and the Occupied Territories. They include some people arrested during the past year (6,245 Palestinians were arrested for security offences during 1994, according to official Israeli statistics). At least 700 administrative detention orders were apparently issued during 1994 and a total of 239 people remained in administrative detention at the end of 1994.

Arrests and detentions

Acts of violence between Palestinians and Israelis increased before implementation of the accords began. On 25 February 1994 at least 29 Palestinian Muslims were gunned down in Haram al-Ibrahimi mosque in Hebron by Baruch Goldstein, an Israeli settler, before he was himself killed by the people in the mosque. More than 30 Palestinians were killed by Israeli forces in the following two weeks, mostly during protest demonstrations and riots. Suicide bus-bombings against Israeli civilians at Afula on 6 April and Hadera on 13 April killed at

least 13 people, including the bombers, and wounded over 80. Responsibility for the attacks was claimed by *Hamas*. After the bus-bombings Israeli forces arrested over 400 suspected *Hamas* supporters; according to Israeli Defence Force (IDF) statistics, the number of people held in administrative detention rose from 113 at the beginning of April 1994 to over 330 two weeks later.

In mid-1994 Israeli forces continued to make arrests in the Occupied Territories, mostly of suspected members of Islamist groups. After interrogation, sometimes accompanied by torture, those arrested were either charged and brought to trial for offences such as membership of illegal organizations, or administratively detained without trial, or released. The Palestinian Authority also arrested suspected supporters of Islamist groups opposed to the peace agreement. They were released after up to a month's detention without charge or trial.

On 9 October 1994 an Israeli soldier, Nachshon Waxman, was abducted and held hostage by members of *Hamas*. During an attempt to rescue him five days later he was killed, apparently by his captors, three of whom were also killed along with an IDF officer.

On 19 October 1994 a suicide bus-bomber in Tel Aviv killed 23 civilians (including one who died later) and wounded 44 others. These events led to further waves of arrests in both Israel and the Occupied Territories and in the areas under the Palestinian Authority's jurisdiction. Immediately after the October suicide bombing the torture of detainees under interrogation became more severe: in the words of the Ministry of Justice "exceptional dispensations [were] given to GSS investigations" for a period of three months. Arrests followed by prolonged incommunicado detention in the Occupied Territories continued at a high level in the following months.

Another wave of arrests took place after 22 January 1995 when 20 soldiers (including two who died later) and one civilian were killed by two suicide bombers at a bus stop on the Beit Lid road near Netanya. On 23 January the three-month extension of "exceptional dispensations" for the GSS, reportedly allowing increased physical pressure, was renewed and on 5 February the maximum period of administrative detention was extended to one year, renewable. In February 1995, Prime Minister Yitzhak Rabin stated that 2,400 people had been arrested for security offences since October 1994.

ISRAEL AND THE OCCUPIED TERRITORIES

Regulations governing detention

Between April 1994 and April 1995 at least 6,000 Palestinians were arrested for alleged security offences by Israeli forces. Many were arrested as a result of raids on houses, often at night; others were arrested during demonstrations or riots against the Israeli authorities.

Both Israeli law and Israeli military orders violate international human rights instruments by allowing prolonged incommunicado detention without access to lawyers or family - a situation known to facilitate torture.

Under Israeli Criminal Procedure Law, an arrested person should be brought before a judge as soon as possible and not later than 48 hours after arrest (Article 27b). The detainee has the right to notify the family and a lawyer immediately after arrest and should be informed of these rights. However, if the suspect is charged with state security offences the arrest may be kept secret for 15 days, and the defendant may be prevented from seeing a lawyer for a further 15 days - a total of 30 days incommunicado (Articles 29f and 30c).

However, most of those arrested have come from the Occupied Territories of the West Bank, where safeguards for the detainee are fewer than for those arrested in Israel or annexed East Jerusalem and the Golan Heights. The Military Orders applying to the Occupied Territories were amended on 20 July 1994 to reduce the maximum period of detention without judicial review from 18 days to 11 days⁴. The amended Military Order continues to deny detainees their right under Principles 11 and 37 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles) to be heard promptly by a judicial or other authority. These Principles are applicable at all times. General Comment 8 (16) of the UN Human Rights Committee on the definition of "promptly" states that "delays must not exceed a few days".

Under Military Order No. 378 issued in 1970 for the West Bank, detainees may be denied access to a lawyer for a total of 90 days. The interrogating authorities may prohibit access for the first 30 days if, in their opinion, this is "necessitated by the security of the region or for the sake of the investigation". Military Court judges may prevent access for a further 30 days on the same grounds and for an additional period not exceeding 30 days if the army Regional Commander certifies in writing that "special reasons of security in the region require such a measure" (Article 78).

⁴ In 1993 the maximum period of detention without judicial review was reduced from 18 to eight days for detainees aged 16 or below and the same reduction was made for adults suspected of "any but the most serious offences".

Such prolonged detention without access to a lawyer is in breach of Principle 7 of the UN Basic Principles on the Role of Lawyers, which requires governments to "ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer, and in any case not later than forty-eight hours from the time of arrest or detention".

Among the national safeguards which should provide a measure of protection for the detainee are the detainee's access to medical orderlies and doctors; the Israeli authorities' agreement with the ICRC that they will provide access within 14 days; and the obligation for judicial review of detention within 11 days. These safeguards are adhered to by the Israeli Government, yet they have not succeeded in ending torture. This is partly explained by the following four issues:

- a) Medical orderlies are usually military personnel with little medical training who may not be capable of assessing illnesses exacerbated by ill-treatment or of taking action to treat detainees. Detainees often regard the medical orderlies as part of the interrogation team.
- b) Detainees are frequently returned to interrogation after being seen by medical doctors and psychiatrists. Medical doctors may also issue medical certificates authorizing the continuation of interrogation. Such practices appear to condone torture and are in breach of UN Principles of Medical Ethics⁵.
- c) Torture and ill-treatment may happen in the 14 days before the ICRC visit and interrogation sessions may continue afterwards. The ICRC delegate who visits detainees is bound by a code of confidentiality and the ICRC rarely raises its concerns publicly⁶.

Many detailed and consistent testimonies show that torture and ill-treatment continues before and after visits by doctors and the ICRC. For example, a university student⁷, arrested in July 1994, said he was beaten and shaken while he was shackled to a low chair and deprived of sleep for prolonged periods. He told Amnesty International delegates:

⁵ Principles 2, 3 and 4 of the UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, prohibit health personnel from acts which constitute participation or complicity in torture.

⁶ However, on two occasions since 1991 the ICRC has publicly voiced its concerns about the treatment of detainees. In July 1991, noting the "lack of response to previous representations", the ICRC called on the Israeli authorities "to give special attention to the treatment of detainees under interrogation". In May 1992 the ICRC called on the Israeli Government "to put an immediate end to the ill-treatment inflicted during interrogation of detainees" from the Occupied Territories, having observed "no substantial or lasting improvement in the situation".

⁷ The student did not wish his name to be cited.

"I was one month in solitary confinement. After three weeks I saw someone from the ICRC and told him that I had blood in the urine and shooting pains in the kidneys. I told about how I was treated. Before a doctor came my interrogators said I was a liar and beat me more and the medical orderly beat me, slapping me because I asked for a doctor. The doctor came and afterwards came every day for a week and gave me pills. However they continued to interrogate me and hanged me by the arms for one and a half hours..."

d) The extension of detention orders by a judge is often rapid and apparently automatic. The detainee is reportedly almost always present in court, but the defence lawyer sometimes is not, either because engaged elsewhere and the judge has not ordered a temporary adjournment or because he or she has not been informed. The extension does not necessarily take place in court; it sometimes happens in the interrogation room or elsewhere.

The Landau Commission and the failure of judicial safeguards

International human rights standards unequivocally oppose torture under all circumstances. Article 7 of the ICCPR states that:

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

This article is non-derogable, even in "time of public emergency which threatens the life of the nation" (Article 4).

The Convention against Torture similarly states that:

"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 for torture".(Article 2(2)).

Israeli law applicable to all law-enforcement officials in Israel and the Occupied Territories forbids the use of violence or threats to extract confessions (Article 277 of the 1977 Penal Law). However, secret guidelines drawn up by the Landau Commission in 1987 allowing "the exertion of a moderate measure of physical pressure" remain official interrogation policy. The Landau Commission was set up after two incidents involving torture were covered up by the GSS.

The Landau Commission based its argument in favour of permitting "moderate" pressure partly on Article 22 of the Penal Law, which exempts from criminal responsibility the author of an act committed in conditions of "necessity ... in order to avoid consequences

which could not otherwise be avoided and which would have inflicted grievous harm or injury on his person, honour or property or on the person or honour of others whom he was bound to protect or property placed in his charge", provided that he did no more than was "reasonably necessary" for that purpose and that the harm caused "was not disproportionate to the harm avoided".

The Landau Commission used "necessity" to argue that the GSS was required to protect the security of the state, which includes preventing grievous harm or injury to its citizens. If a subject's confession is the only source of information on his harmful activities, with respect to what is "reasonably necessary" in light of "the concept of the lesser evil", the use of "actual torture...would perhaps be justified in order to uncover a bomb about to explode in a building full of people" (para. 3.15).

The guidelines which regulate the physical or psychological pressure to be used are in the secret section of the Landau Commission's report and have not been disclosed despite repeated requests by Amnesty International and other human rights organizations. In 1991 a petition to this effect was submitted to the High Court of Justice by lawyer Avigdor Feldman on behalf of the Public Committee Against Torture in Israel, a non-governmental human rights organization based in Israel, and Murad Salahat, a Palestinian detainee who alleged that he had been tortured in 1990. The High Court of Justice has not yet given its ruling on the substance of the petition. However, a letter from Tamar Gaulan, the Director of the Foreign Relations and International Organizations Department of the Ministry of Justice, dated 15 March 1995, in answer to a letter from Amnesty International to Prime Minister Yitzhak Rabin on 16 November 1994, stated that:

"The guidelines always include an express prohibition against starving or withholding water from the detainee, as well as denying access to the toilets and putting him in conditions of severe heat or cold."

It is noteworthy that beatings, prolonged hooding, confinement in closets, sleep deprivation and long-term shackling in painful positions, all mentioned in cases raised by Amnesty International, are not mentioned in the prohibitions listed in this letter.

At court proceedings in which a "trial within a trial" or "mini-trial" is held to examine allegations by defendants that confessions were extracted by torture in pre-trial detention, GSS interrogators have admitted keeping detainees standing or sitting in painful positions and depriving them of sleep for up to 24 hours a day. Admission of such treatment made freely before an open court is strong evidence that sleep-deprivation while being shackled in painful positions is allowed under the Landau Commission guidelines.

The letter to Amnesty International from the Ministry of Justice cited above states that:

"Under no circumstances should there be any resort to torture of detainees".

The Landau Commission stressed that "the pressure must never reach the level of physical torture or maltreatment of the suspect or grievous harm to his honour which deprives him of physical dignity" (para. 3.16).

However, methods of torture and ill-treatment which do affect human dignity are still systematically used in Israeli interrogation centres. The acceptance by the Israeli Government of the Landau Commission guidelines has meant that torture and ill-treatment, which existed before but were officially denied and outlawed, have, since 1987, become officially accepted, even by judges and doctors whose professional codes of ethics strongly denounce the use of torture or ill-treatment.

In April 1994 the UN Committee against Torture considered Israel's initial report regarding implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee found the authorization of the use of "moderate physical pressure" to be "completely unacceptable" and expressed concern at the "large number of heavily documented cases of ill-treatment in custody". The Committee recommended that the interrogation procedures be published and that all interrogation practices in breach of the Convention be ended immediately⁸.

There are some exceptions to the official condoning of torture and ill-treatment in detention centres. No mini-trial challenging confessions allegedly obtained under duress brought on behalf of Palestinians from the Occupied Territories is known to have been successful⁹. However, in April 1994 in mini-trial No. 201/93 before the Tel Aviv District Court (in Israel), Judge Talgarn accepted the appeal of Abd al-Hakim Jabali, saying:

"I am not trying to dictate what investigators should do when they see before them a real danger of a bomb going off or some other kind of terrorist incident which they have reason to believe the suspect knows about and is not admitting. In this particular case, [although] I would not want to accept the accused's claim that he was hurt physically, I have no doubt an interrogation technique, whereby interrogators are changed constantly in rotation and interrogate the accused for 24 hours continuously on one occasion, and almost 48 hours continuously on another, inflicts considerable suffering on the person being questioned. A period of incarceration in the "waiting cell" whereby the accused is handcuffed in a narrow cell at times with a sack on his head could break

⁸ (CAT/C/XII/CRP.1/Add.5 28 April 1994)

⁹ In the past they have generally been used by defence lawyers as a means of plea-bargaining and withdrawn before any judgment has been made.

the will and ability to withstand questioning of anyone...During the hours that I mentioned earlier the accused was denied a continuous sleep of more than two or three hours at a time and I have no doubt that any confession extracted from him after enduring such conditions cannot be characterised as voluntary."

On at least three occasions over the past year Israel's High Court of Justice has issued injunctions to allow defendants under interrogation to sleep. One such injunction was issued on behalf of Fawzi Mujahid, who stated in an affidavit presented to the High Court of Justice that he had not been allowed to sleep between 26 and 30 June 1994. Arrested on 20 June, his lawyer was able to see him for the first time only on 30 June at the time of the court hearing for an extension of his detention order.

In 1994 a department within the Ministry of Justice was set up to examine complaints against the GSS. It is too early to see how far this will be able to investigate reported violations inasmuch as the torture or ill-treatment inflicted on detainees may be within the secret Landau guidelines. No investigation so far is known to have resulted in a prosecution. The director of the department has, however, written letters to those who have lodged complaints, urging them to come to the ministry to be interviewed.

Extending the guidelines or exceptional dispensations?

The Landau Commission Report recommended that a ministerial committee should be set up to review regularly the secret guidelines on the use of "moderate pressure" with the power to amend them. The existing committee, which reportedly meets once a month, is composed of the Prime Minister, the Minister of Justice, the Minister of the Environment and the Minister of Police. It was this committee which, according to press reports, extended the Landau Commission guidelines by allowing the use of increased physical pressure for a three-month period in the aftermath of the October 1994 Tel Aviv bombing and which renewed this authorization in January 1995, immediately after the Beit Lid bombing.

Soon after the Waxman kidnapping and the Tel Aviv bomb attack, both claimed by *Hamas*, Prime Minister Yitzhak Rabin called for legislation permitting harsher interrogation of suspects, reportedly stating that "if the security services had acted according to the guidelines of the Landau Report in interrogating *Hamas* people, they would not have found out the location of the kidnappers of Nachshon Waxman". On 20 October, the Minister of Justice, David Liba'i, was reported in the press as stating that there was no need to change the guidelines, as there was already a specific exception to the Landau Commission guidelines, enabling investigators to act "efficiently" in cases such as a "ticking time bomb". On 13 November, the Minister of Justice issued a public statement denying reports that the Landau Commission guidelines would be changed, but said that a decision had been taken "to help strengthen the forces to fight the wave of terror of *Hamas* and Islamic *Jihad*".

In response to Amnesty International's concerns about interrogation practices and the use of increased physical pressure as a result of the reported extensions to the Landau guidelines, the Israeli Government has reiterated that "there has been no change whatsoever in our basic guidelines on interrogation policies".

However, a letter from the Legal Advisor to the Government, Judge Michael Ben Yair, to the Public Committee Against Torture in Israel, offered a clarification not included in letters to Amnesty International:

"[T]he Cabinet Committee for GSS Investigations decided in its meeting of 23.1.95 to extend the amendment concerning the exceptional dispensations given to GSS investigations in the past three months...

It should be reiterated that this does not refer to the use of torture."

Methods of torture

3 The closet-shaped room

Hooding: Virtually every security detainee brought into the custody of the GSS is hooded with dirty and sometimes wet sacks, which disorient the victim and hamper respiration. The hood is usually only removed for interrogation and when the detainee is sent to a cell to sleep or confined in a cell with other detainees.

Position abuse (*shabeh*): prolonged standing or sitting in painful positions. The detainee is nearly always hooded.

Standing, the detainee is often shackled to a pipe, usually in a painful position either in the corridor or yard; detainees often describe painful exposure to sun or cold (sometimes air conditioning).

Sitting, the detainee is usually tied in a contorted position to a small chair, described as a "kindergarten chair"; sometimes two of the chair's legs are sawn off to make sitting on it even more uncomfortable.

Sleep deprivation: While the detainee is in "position abuse" s/he is frequently pushed by guards to ensure that s/he can not sleep. The detainee may be allowed to sleep for two or three hours, or not at all. Interrogations are frequently held at night.

Confinement in closet-shaped rooms (*khazana*): these cells are too small for the detainee to sit or lie in; usually they are draughty and foul-smelling and the detainee may be shackled to the wall.

Often the detainee is not allowed to go to the toilet except at certain times.

Food deprivation: meals may be missed or, more often, given with only five or 10 minutes to eat and carry out toilet needs.

Beatings: detainees describe punches, slaps and kicks all over the body including the genitals, and beatings with cables.

Threats of disablement: many detainees say they were threatened that they would be physically or mentally disabled by the time they left the detention centre; in particular, men were threatened that they would be unable to father children. Other threats include the repetition by prison officials of names of detainees who had reportedly died under interrogation in previous years.

Cells with informers: many detainees describe being put in a cell with other supposed detainees who are informers. They urge the detainee to tell them what they know, using persuasion or force.

Loud music: detainees frequently describe raucous music with the same tapes played 24 hours a day.

In between periods of torture and interrogation are periods of "rest" when a detainee is taken to a cell with a mattress and blankets and allowed to sleep. Detainees complain of dirt, bad smells and cockroaches.

Torture and ill-treatment: the practice

Scores of testimonies describing these methods of torture have been received since the Landau Commission laid down guidelines for the use of a "moderate measure of physical pressure" in 1987. Some of the cases of those allegedly tortured have been subject to hearings in courts; rarely has any redress or recognition of ill-treatment been obtained. Israeli Government replies to thousands of letters each year from Amnesty International members concerning individual cases of torture have neither admitted nor denied the use of methods of interrogation such as sleep deprivation or position abuse. However, in response to Amnesty International's concerns, the authorities have stressed the alleged "terrorist" activities of those interrogated by these methods and that there is constant medical supervision of detention centres.

The cases cited below are representative of many gathered by Amnesty International and other human rights organizations. They illustrate a consistent pattern of abuse.

Hani Muzher, a student at Bir Zeit University, was arrested on 13 July 1994 and taken to Ramallah Prison for interrogation. He was denied access to a lawyer by an order, renewed several times, banning such meetings until 11 August. On 27 July a lawyer saw Hani Muzher for the first time but was not allowed to speak to him. Hani Muzher's wrist was bandaged. The lawyer was not allowed to be present when Hani Muzher told the judge about his interrogation or to have a copy of the courtroom minutes.

On 3 and 7 August a lawyer acting for Hani Muzher petitioned the Israeli High Court of Justice for access to his client. Following a High Court ruling on 9 August, Hani Muzher's lawyer was allowed to speak to him for the first time on 11 August, 29 days after his arrest. At that time, he told his lawyer that he had been deprived of sleep and kept shackled in painful positions for at least a week. He said that threats had been made against his life and his physical and mental well-being. He said that he had found a razor blade when taken to the toilet and had cut his wrist in an attempt to have a break from interrogation. Hani Muzher's medical records confirm that he was seen by a doctor on 20 July. The medical records state that Hani Muzher told the doctor that he had cut his wrist because he was tired owing to sleep deprivation. The doctor apparently stated that Hani Muzher was in a satisfactory physical condition and recommended that Hani Muzher should not be left alone in his cell and that he should be allowed to rest for one night. According to Hani Muzher, he was returned for interrogation after his wound had been stitched. His lawyer reported that although he was fed three times a day his food was consistently removed before he had finished it.

A response from the Israeli Ministry of Justice to letters from Amnesty International members neither admits nor denies the sleep deprivation and position abuse suffered by Hani Muzher, but states that, according to his indictment, "Muzher was recruited to the military wing of the PFLP early in 1994 and agreed to carry out terrorist attacks against Israeli targets" and that he "was under continuous medical supervision since the day of his arrest".

On 22 February 1995 Hani Muzher was brought to trial before the Military Court. He was charged with membership of the PFLP, illegal possession of firearms and planning to kill. He was convicted on all charges and sentenced to 28 months' imprisonment and a fine of 2,000 NIS (about \$670).

Another student, **Ahmad Sa'id**, was arrested on 29 June at 3am from a students' hostel at Bir Zeit University. He remained in the interrogation wing in Ashkelon Prison for over 130 days during which time he had some access to his lawyer but no access to his family. After a first period of interrogation and physical pressure amounting to torture, he stated that, because he was accused of carrying a message to Yahya Ayyash, believed to have made the bombs, he was brought into more intense interrogation and torture immediately after the suicide bombing which killed 23 people on a Tel Aviv bus on 19 October. It was at this point

that the Landau Commission guidelines were first said to have been extended. Ahmad Sa'id stated that his interrogators told him that now they had "removed their gloves".

Ahmad Sa'id told an Amnesty International delegate:

"They blindfolded me and they put me and another person arrested in a military vehicle and they took us from the students' hostel to Ramallah Prison. On the way to the prison they beat us on our legs and heads...

"Then they moved us to Ashkelon Prison...where I was interrogated by a GSS officer who told me I was in Ashkelon and that there were many charges against me and I must confess. I denied it and he rained down blows on my chest and shouted and insulted me. Then he made me sit and stand in painful positions for a long time. This continued day and night.

"When we were being interrogated we were in the same situation, being beaten on the chest, squatting for up to one hour, standing in the sun for three to four hours. Between these interrogation sessions, we were made to sit on a small wooden chair whose front legs had been made shorter than the back ones and the back of the chair was bent forward. We would spend five days and nights in this way, and we would go to the cells for the other two days, Friday and Saturday [when they were allowed to sleep]. We were taken out for interrogation from Sunday morning till Friday morning. And we stayed like this for two and a half months. And after that they added Friday, and so we stayed in *shabeh* for six days.

4 Shabeh: sitting on a low chair

"We stayed like that until the bombing in Dizengoff Street in Tel Aviv [on 19 October] and then they kept us there for 11 days and I stood for 20 hours instead of four hours a day. The squatting would last four hours instead of one hour. They interrogated me with more physical pressure than before, pressing down on my stomach, my spinal cord and the joints of my feet. Then they made me do physical exercises with my hands tied - this might have made me paralysed if I lost control because my whole weight was on my spine. They threatened me with being unable to father children and with incurable injury. They mentioned names of other prisoners who had been left

dead or injured and if we slept or rested they would pour cold water on us or hit our heads.

"After the Dizengoff Street bombing ... we did not sleep for 11 days. It was summer. The *shabeh* was in the sun during the day and in cold air-conditioned rooms at night. Standing under the sun, the bags on our faces made it hotter. The bags on my face day and night affected my sight as it was dark all through.

"When they beat us they told us that they wouldn't leave marks on the body 'so that if you speak to the judge or the Red Cross representative or the lawyer they won't see any mark and they won't believe you'."

Ahmad Sa'id said that while he was deprived of sleep, he was forced to lie over a chair in a painful position with his hands secured. Then his interrogators pushed him over. During his time in *shabeh* he heard continuous loud raucous music played from two different tapes; one contained songs whose words were undistinguishable, even after hearing the same tape for five months, the other classical music, "something like Beethoven". He was also put into a cell with people who said they were sympathizers. They asked him for the "message" he was said to have carried, saying they would smuggle it out; when he refused, they beat him.

5 Shabeh: standing

Ahmad Sa'id was brought to trial on 22 November 1994 charged with illegal possession and transfer of a revolver, and for passing messages for *Hamas*. He was sentenced to 30 months' imprisonment, 23 of which were suspended. He was released on 12 January 1995.

In the Israeli Ministry of Justice's response to letters from Amnesty International's members expressing concern about the alleged torture of Ahmad Sa'id, the specific allegations of hooding, prolonged sleep deprivation, position abuse and other ill-treatment were neither admitted nor denied. The Ministry of Justice stressed that *Hamas* was a "terrorist" organization involved in armed attacks and the kidnap of Nachshon Waxman. The

letter stated that Ahmad Sa'id told an investigator that he had no complaints¹⁰ and insisted that "it was found upon investigation that there had been no breach of the interrogation guidelines".

One lawyer summed up in February 1995 the changes in the general situation:

"Before, it was rare to find people spending six days in *shabeh*; now it is normal -six days *shabeh* without sleep and a rest on Saturdays. Before there was some beating; now it is normal. Before, the period of interrogation was shorter; now people are spending 90 days in interrogation."

Among those whose period without access to family was extended beyond 100 days was **Ziyadah al-Qawasmah**. Aged 19 from Hebron, and a student in his final year in high school, Ziyadah al-Qawasmah was arrested on 13 November 1994. His detention was extended until 28 March, by which time he had spent 136 days in detention without access to his family. His lawyer, who was able to visit him about 25 days after his arrest, reported that he remained under interrogation in Ramallah Prison during this period, spending up to six days a week deprived of sleep, much of the time in *shabeh* sitting on a small chair. Charges against him included holding posts of responsibility within *Hamas* and stonethrowing. His trial was postponed until 23 May.

Another detainee interrogated after the extension of the guidelines was **Hamed As'ad Hamed al-Kuni**. A 17-year-old high-school student, he was arrested on 24 October 1994 and held in the interrogation wing of Nablus Prison on suspicion of being a leading *Hamas* activist. His affidavit states that he was continually hooded and kept in *shabeh* on a low chair with his hands and legs tied for 120 hours. Hamed al-Kuni had previously had recurrent back problems and had been treated at St Luke's Hospital and the Islamic Charitable Solidarity Association in Nablus. He testified:

"On 23 November 1994 when I was led from the court back to the jail I was beaten badly on my back so that till now I suffer from swollen nerve clusters on my back. These nerves are connected with my leg. They caused an affliction in my left leg so that I could not move it for 21 days. Seven of these days they went on with the interrogation, the *shabeh* and all the rest as before."

Hamed al-Kuni stated that he had been beaten continuously on his testicles and penis, causing swelling of his testicles that lasted over a month and a half. He said interrogators had

¹⁰ Many detainees fear that they will be detained longer if they make complaints.

Ahmad Sa'id stated that, when he was asked whether he wanted to make a complaint, he replied: "No, I don't want to see this building again".

hit his head with their fists, causing swelling of the head and severe pain lasting several months, and had beat his bad leg. The interrogators also allegedly prevented him from going to the toilet. As a result, he was forced to relieve himself in his clothes which he had to wear for a further 20 days:

"I told a GSS man that to piss is a basic human right. He jumped at me and began to beat me".

On 30 November he was served with a six-month administrative detention order on the grounds that he was a *Hamas* activist and transferred to Ketziot Camp. At the judicial review on 6 March, the administrative detention order was confirmed but dated from the day of his arrest.

It is difficult to assess the proportion of those arrested who are subjected to physical or psychological pressure. What is clear is that several hundred alleged supporters of *Hamas* and Islamic *Jihad*, and scores of others accused of security offences or believed to be members of groups opposed to the peace treaty, have suffered torture or been put under intense physical or psychological pressure in Israeli detention centres over the past year.

Amnesty International does not dispute the right of governments to bring to justice those who have committed crimes. However, torture or ill-treatment of anyone is outlawed by international standards, whatever the crime he or she has allegedly committed, and whatever the crime the authorities intend to prevent.

THE PALESTINIAN AUTHORITY

Regulations governing detention

Since 1967 Gaza and Jericho had been subject to Israeli military orders, although the legal procedural codes in the two areas had differed. Immediately after moving to Gaza in May 1994, Yasser Arafat suggested publicly that Israeli military orders were to be abolished. This contradicted the Agreement on the Gaza Strip and the Jericho Area, which states that laws and military orders in force prior to the signing of the Agreement are to remain in force unless amended or abrogated in accordance with the Agreement. Abrogation of military orders would thus have to be approved by a joint Israeli-Palestinian sub-committee, which has not happened. However, Israeli military orders governing arrest and detention procedures are not known to have been invoked under the Palestinian Authority.

In Gaza arrest procedures are governed by the 1924 Criminal Procedure (Arrest and Searches) Ordinance, promulgated under the British Mandate of Palestine, which states that those arrested without warrant should be brought before a magistrate within 48 hours of

arrest. In Jericho (which was under Jordanian rule between 1948 and 1967), those arrested may be detained without access to lawyers until charged. Detention orders may be extended by prosecutors who may be members of the intelligence services acting in that capacity.

On 7 February 1995 a State Security Court was established. The court was set up in accordance with Article 59 of the Palestinian Constitution promulgated in Gaza in 1962, which states that: "Military Courts may be established by order of the Governor General to adjudicate crimes affecting internal or external security, and the security of military forces and their safety. The judgments of such courts are to be ratified by the Governor General".

The judges and prosecutors of the court, who were appointed in February, are PLO military officers. Details of the court and its procedures were not announced. Amnesty International wrote to the Palestinian Attorney-General, Khalid al-Qidra, in February 1995 seeking assurances that requirements of Article 14 of the ICCPR, which lays down standards for fair trials, and the UN Basic Principles on the Independence of the Judiciary should be fully met. However, in the first cases held by the court, pre-trial and trial procedures fall far short of international standards for fair trial. On 10 April, immediately after two suicide bombs killed eight people, including six soldiers, in the Gaza Strip, the first case was heard before the State Security Court. Samir Ali al-Jedi, a supporter of Islamic *Jihad*, was sentenced to 15 years' imprisonment for training guerillas. On 12 April, Omar Shallah, a leader of Islamic *Jihad*, was sentenced to 25 years' imprisonment for incitement to suicide operations. They had remained in pre-trial detention for about a month without access to lawyers. The trials were reportedly held *in camera* at night; defence lawyers were appointed by the Court.

Arbitrary political detentions in the Gaza Strip

Waves of arbitrary detentions of Islamists and other suspected opponents of the peace process have taken place in the Gaza Strip since May 1994. Most arrests have apparently been in response to Israeli pressure on the Palestinian Authority to act against those believed to be carrying out or sympathetic to acts of violence in Israel or the Occupied Territories. Israel's security requirements were written into the agreements which set up the Palestinian Authority. The Agreement on the Gaza Strip and the Jericho Area of 4 May 1994 states:

"Both sides shall take all measures necessary in order to prevent acts of terrorism, crime and hostilities directed against each other, against individuals falling under the other's jurisdiction and against their property, and shall take legal measures against offenders. In this regard, the Palestinian side shall also take all measures necessary to prevent such hostile acts directed against the settlements, the infrastructure serving them and the military installation area, and the Israeli side shall take all measures necessary to prevent such hostile acts emanating from the settlements and directed against Palestinians."(Article 18)

In response to specific attacks on Israelis in Israel and the Occupied Territories, Palestinian Authority forces have arrested scores and sometimes hundreds of Islamists and others, including members of the DFLP. They have also arrested a number of people, including journalists, who have criticized the Palestinian Authority. Those arrested include prisoners of conscience or possible prisoners of conscience.

Individuals and groups, apparently suspected of sympathies with militant Islamist groups such as *Hamas* and Islamic *Jihad*, were arrested from May 1994. From September 1994 the numbers of those arbitrarily arrested and detained on political grounds increased. Between September and November 1994, over 300 people were arrested, mostly supporters of *Hamas* arrested after the kidnapping of Nachshon Waxman in October, but including members of Islamic *Jihad* and over 50 DFLP supporters. In January and February 1995 came new waves of arrests: about 80 suspected Islamic activists were detained and, in February, more than 100 suspected supporters of the DFLP were arrested after the DFLP claimed responsibility for killing an Israeli security guard in the Gaza Strip on 6 February. Following the two suicide bomb attacks on Israeli targets in the Gaza Strip on 9 April a further 150 suspected members of *Hamas* and Islamic *Jihad* were arrested.

Most of those who were arrested in 1994 were released uncharged after a few days, but some were held for up to two months. However, in early 1995, many of those arrested suffered even longer terms of detention. Some of those who were arrested in January and February remained in detention without charge or trial two months later. The majority of the arrests appear to have been carried out without reference to any criminal procedure and contrary to international standards concerning detention: warrants were not issued; those arrested were not brought before a magistrate to have the grounds for detention examined; and no formal access was allowed to the detainee's lawyer or to his or her family (although the family, and occasionally the lawyer, sometimes gained informal access through the authorization of police or prison guards). Initial interrogation of those arrested seems to have been frequently limited to general questions about personal details and political affiliation, rather than about any specific act or offence.

Taher Shriteh, a correspondent of Reuters' news agency in the Gaza Strip, was detained twice in October 1994, the first time for five days and the second time for nine days. The first arrest, on 13 October, was because he and three colleagues had obtained a video showing Nachshon Waxman in captivity. The second time Tahar Shriteh was arrested, on 26 October 1994 by the Presidential Guard, he was accused of sending a *Hamas* communique to the Reuters office in London. He was asked how he had obtained and sent the communique, but was not charged with any offence. He was held in al-Rimal Police Station without contact with his lawyer, and then released on 4 November.

Mustafa Sawwaf, the Director of *al-Nahar* newspaper, was arrested without a warrant at 4am on 13 October 1994 by armed police officers, including some in civilian dress. He

was held in Gaza Prison and interrogated only about his family and his previous imprisonment in Israel. The majority of those arrested at about that time were released within a week. Only seven were held for longer: Mustafa Sawwaf was detained for 47 days. During that time he had no access to his lawyer. He was allowed to telephone his family after two weeks, but only met them 42 days after his arrest. He was never charged, nor brought before a judge.

'Ala' Saftawi, office manager of *al-Istiqlal* (Independence), was arrested in *Abrar* office, belonging to the newspaper, at 11am on 8 February 1995 by about 12 members of the Palestinian security police, some of them armed, and most in civilian dress. When asked for a warrant the officer reportedly showed only an identity card with a photo but no name and refused to give his name. After a two-hour search Ala' al-Saftawi and the five members of staff, Attiya Abu Mansur, Hammad Fayyad, Zakariya Madhhun, Khaled Sadiq and Nabid Kutkut, who happened to be in the office, were taken to Gaza Central Prison. 'Ala' al-Saftawi was interrogated about his political activities and relations with Islamic *Jihad*. Those arrested were also accused of forging official stamps. After the first five days they were allowed newspapers, food and clothes from their families, and a radio. 'Ala' al-Saftawi was given access to his lawyer and family and was also interrogated by the Palestinian Authority Attorney General. However, neither he nor those detained with him was ever brought formally before a magistrate according to the law. Ala' al-Saftawi's affidavit states that during a second interrogation, after 10 days, he heard shouts and screams from outside the interrogation room, and saw people with black hoods over their heads. After 23 days in detention without charge or trial, he was released on 1 March, apparently on the orders of Yasser Arafat, head of the Palestinian Authority.

In April 1995 more than 30 of those arrested in January and February 1995 remained detained. Over 150 others, including members or suspected sympathizers of *Hamas*, Islamic *Jihad* or the DFLP, had been released without charge.

Arrests and arbitrary political detention have been carried out in contravention of international UN human rights standards which prohibit arbitrary detention and provide clear guidelines on detainees' prompt access to lawyers, judges and families.

- Principle 2 of the Body of Principles states that: "Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose".
- Even in exceptional circumstances a detainee's right "to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel" as set forth in Principle 18 "shall not be denied for more than a matter of days".

- According to Principle 11: "A person should not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority".

Principle 19 of the UN Body of Principles states that a detainee "shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given opportunity to communicate with the outside world subject to reasonable conditions and restrictions as specified by law or lawful regulations."

Torture and ill-treatment

UN human rights standards outlaw the use of torture. Article 5 of the Universal Declaration of Human Rights states that:

"No one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment".

The third draft of the Palestinian Basic Law repeats this absolute prohibition, stating that:

"No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment..." (Article 11)

Despite this, reports of torture or ill-treatment began to emerge soon after the establishment of the Palestinian Authority. Most involve detainees accused of "collaboration" with Israel or of criminal offences, especially involvement in drugs, prostitution or pornography. Two detainees have died in custody in circumstances which suggest that torture or ill-treatment caused or contributed to their deaths. Detainees arrested for political reasons other than alleged "collaboration" appear not to have been ill-treated.

On 6 July 1994 **Farid Hashem Abu Jarbu'**, from the Shaburah area of Rafah in the Gaza Strip, died in custody. He had been arrested on 26 June 1994 and was taken to Gaza Prison, apparently on suspicion of having collaborated with the Israeli authorities. He was reportedly detained without an arrest warrant and during his detention he was not permitted access to either a lawyer or family members. On 7 July, when his family received his body, they apparently noted injuries on his body unconnected with an autopsy which had also been carried out. Freih Abu Middain, the Palestinian Authority's Minister of Justice, stated that Farid Abu Jarbu' had died as a result of violence and opened an internal investigation into the incident. No details about the methods or results of this investigation have ever been made public. Four members of the Palestinian police force were arrested and charged in connection with the affair. However, by December 1994, all had been released and reportedly restored to their former duties, and no trial has yet taken place.

Salman Jalaytah, a 45-year-old lifeguard, was arrested on 15 January 1995 at about 1am in Jericho by armed preventive security (*al-'amm al-wiqa'i*) officers in civilian clothes. They searched his house and took scores of video recordings, believed to be pornographic. They then took Salman Jalaytah to Jericho preventive security detention centre. His brother-in-law, **Rashid Fityani**, aged 20, was arrested the same night. The same day, Salman Jalaytah's son and Rashid Fityani's mother reportedly went to the preventive security headquarters where officers allegedly said that they had no information about their relatives. On 18 January the family of Salman Jalaytah was informed that he was dead and later saw the body, which had undergone an autopsy. The family told Amnesty International that they saw traces of violence on the body, including a bruise on the forehead. They were not given a death certificate nor the autopsy report, although they asked for both from the Jericho Attorney General: the Attorney General simply gave the family a piece of paper authorizing them to bury the body. An investigation into the death was ordered by the Director of the preventive security in Gaza but neither its methods nor its findings have been made public. The autopsy report has also not been made available.

6 Rashid Fityani, allegedly tortured by the preventive security police in Jericho

These actions were contrary to the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, which require the authorities not to dispose of the body until a proper autopsy is carried out by an independent examiner (Principles 12, 13 and 14). The Principles also require the authorities to provide families of the victim with all relevant information concerning the investigation, to ensure that the right to have an independent doctor present during the autopsy is respected (Principle 16), and to make a written report "within a reasonable period of time on the methods and findings of the investigations" which "shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law" (Principle 17).

On 10 February, 25 days after his arrest, the family of Rashid Fityani was able to talk to him for the first time. He allegedly told them that he had been interrogated and tortured in the same room as Salman Jalaytah during the first three days of their detention. Both had been allegedly given electric shocks and had been beaten continuously by cables. Their flesh was also reportedly pinched by pliers. According to his reported statements to the family, the two were given nothing to eat or drink before Salman Jalaytah's death after three days. At the end of the first week Rashid Fityani was apparently given half a glass of tea and a bowl of porridge. During Ramadan (which began on 31

January) he was allowed to receive food sent by his family. He was accused of being an Israeli "collaborator" and of having participated, with Salman Jalaytah and two others, in the killing of Ibrahim Yaghi in the Jericho area on 22 December 1994¹¹.

Two brothers, who were also arrested in connection with the death of Ibrahim Yaghi, were reportedly tortured. **Hazem Siyuri**, aged 21, a baker, was arrested on 9 January 1995 and his brother, **Yaser Siyuri**, also a baker, aged 23, was arrested on 15 January. The family was only able to see Hazem Siyuri 35 days after his arrest. They told an Amnesty International delegate that both brothers said they had been blindfolded, beaten with electric cables and given electric shocks. Three of Hazem Siyuri's fingers were allegedly broken but the family stated that at no time during the first month were the brothers given any medical treatment.

Rashid Fityani, Yaser Siyuri and Hazem Siyuri are all said to be awaiting trial by the newly set up State Security Court. They allegedly carry out hard labour on building new prison blocks.

Human Rights Groups

A Palestinian Independent Commission for Citizens' Rights (PICCR) was established on 30 September 1993 by a decree of Chairman Yasser Arafat "to follow up and ensure the existence of the requirements for the protection of human rights in the various Palestinian laws, legislation, and regulations as well as in the work of the various departments, organs, and institutions in the state of Palestine and the PLO". Up to now nearly all the work of the PICCR appears to have been carried out in confidence by raising concerns directly with the Palestinian Authority. It is therefore difficult to make any judgment as to its effectiveness or otherwise as a lobbying force or in raising human rights concerns with the Palestinian Authority.

Israeli and Palestinian human rights groups such as *al-Haq*, *BTsalem*, the Mandela Institute, the Palestinian Human Rights Information Centre, the Gaza Centre for Rights and Law, the Gaza office of Solidarity International for Human Rights and the Arab Association for Human Rights, to name only a few, have raised human rights violations including torture and ill-treatment in numerous reports. Israeli human rights groups such as the Association for Civil Rights in Israel and the Public Committee Against Torture in Israel have brought cases in the Israeli High Court of Justice calling for the publication of the Landau guidelines and the incorporation into Israeli law of the Convention against Torture. They have also initiated court proceedings on behalf of individual detainees who have suffered torture or

¹¹ Ibrahim Yaghi, a *Hamas* activist, was reportedly taken out of his car on 22 December by four men in a car with Israeli numberplates and killed by a shot in the head.

ill-treatment and on behalf of the families of some of detainees who have died during interrogation.

Palestinian human rights activists have suffered difficulties in carrying out their work. Sha'wan Jabarin, a fieldworker with *al-Haq*, was served with three administrative detention orders during 1994. In a response to Amnesty International the Israeli government stated that Sha'wan Jabarin had "never been detained for his work with al-Haq", but as a senior member of the PFLP and "still connected with the violent activities of the PFLP". In September 1994 the UN Working Group on Arbitrary Detention declared that he was a victim of arbitrary detention. He was released when his six-months' detention order expired on 19 February 1995.

During periods when the Israeli authorities have closed the border between Israel, including annexed East Jerusalem and the Golan Heights, and the West Bank and Gaza Strip, special authorization is needed by staff of human rights organizations based in the Occupied Territories to attend meetings in Jerusalem. This is frequently not obtained, or obtained too late; at the least it may mean several hours waiting in offices. Fieldworkers of Jerusalem-based human rights organizations who were working in Gaza or the West Bank have also been unable to visit their head office, sometimes for months.

In the area of the Gaza Strip under the jurisdiction of the Palestinian Authority human rights groups have also suffered harassment. The Executive Director of the Gaza Centre for Rights and Law, Raji Sourani, was arrested on 14 February, two days after issuing a communique criticising the introduction of the State Security Court. He was released after 16 hours. An international conference on the State Security Court organized by the Centre for 22 March was banned by the Palestinian authorities.

Human rights organizations have increased public awareness of human rights and human rights violations within Israel and the Occupied Territories and could make a major contribution to the future protection of human rights. The Israeli Government and the Palestinian Authority should ensure that institutions engaged in protecting human rights and monitoring human rights violations are supported. Those who are working to defend human rights should not be prevented or impeded from carrying out their activities.

CONCLUSION

In the year since the Agreement on the Gaza Strip and the Jericho Area was signed on May 4 1994, human rights for the people of the Occupied Territories, including the areas under the jurisdiction of the Palestinian Authority, have been violated with impunity.

The Israeli authorities have arrested over 6,000 Palestinians, including prisoners of conscience and possible prisoners of conscience, and, in violation of international human rights standards, have held them without access to lawyers for up to 30 days and without access to families for up to 140 days. The Israeli Government has condoned and even encouraged the use of methods of interrogation such as hoodings, beatings, sleep deprivation and position abuse, which amount to torture or ill-treatment.

Israeli Government responses to Amnesty International on two of the cases cited in this report have neither admitted nor denied the use of such methods; instead they have stressed the availability of medical checks. Such checks are an important safeguard and may have helped to prevent more deaths of detainees. However, by returning detainees to interrogation in circumstances which amount to torture or ill-treatment, doctors and medical orderlies have acted contrary to internationally recognized medical ethics.

The creation of a category of alleged "terrorist" detainees against whom interrogation methods which may amount to torture may be used is unacceptable. It violates international law, including Israel's solemn treaty obligations under Article 7 of the ICCPR and under the Convention against Torture, which are non-derogable under all circumstances. The use of beatings, sleep deprivation and position abuse in Israeli interrogation centres has been unequivocally condemned by the Committee against Torture.

Amnesty International also emphasizes that although international law makes a distinction between torture and other forms of cruel, inhuman or degrading treatment or punishment it absolutely and unconditionally prohibits all of them.

Human rights abuses have also been committed in the areas under Palestinian jurisdiction. Hundreds of people, including prisoners of conscience and possible prisoners of conscience, have been arbitrarily arrested and detained without any formal access to lawyers or family and without any judicial review. Detainees have been tortured and ill-treated in detention centres in both the Gaza Strip and Jericho. Two people have died in circumstances where torture may have caused or hastened their death. No effective investigations meeting international standards have been carried out by the Palestinian authorities into any of these abuses. Such impunity may encourage further abuses.

Amnesty International calls on both the Israeli and Palestinian authorities to ensure that human rights become an integral part of every stage of the peace process.

RECOMMENDATIONS

The Israeli Government

1. End Torture and ill-treatment

Amnesty International calls on the Israeli Government as a first step to abolish all secret guidelines allowing torture and ill-treatment and to ensure that in all territories under its control, the physical and mental integrity of the human person is respected without exception. Any use of "physical pressure" during interrogation, and any other method aimed at forcing confessions, must be absolutely prohibited.

2. Prompt access to judges, lawyers, independent doctors and families

Military orders and other legislation relating to arrest, detention and interrogation should be urgently brought in line with international standards to ensure that every detainee has prompt access to judges, lawyers, doctors and family members.

- Access to judges

All detainees in the Occupied Territories should automatically be brought before a court without delay after arrest. The court should be empowered to assess the legality and necessity of the detention, as well as the detainee's treatment. Court hearings should not take place in the detention facility.

- Access to lawyers

All detainees must be allowed regular and confidential access to lawyers of their choice without delay after arrest.

- Access to independent doctors

All detainees should be allowed prompt and regular access to doctors of their choice. Doctors should never allow themselves to be used to assist practices of torture and ill-treatment by vetting the health of those who are effectively suffering ill-treatment or torture under interrogation.

- Access to families

All detainees should be allowed prompt and regular access to families

3) End impunity

Ensure that thorough, independent investigations are conducted whenever torture or ill-treatment are alleged to have taken place. Ensure that the findings of investigations are made public and that those responsible for torture and ill-treatment are brought to justice.

The Palestinian Authority

1) End arbitrary political arrests

The Palestinian Authority should ensure that all arrests are carried out according to the law and that anyone who is arrested is informed promptly of any charges against him. All prisoners of conscience, arrested for their conscientiously-held beliefs, who have never used nor advocated violence should be released immediately.

2) Prompt access to a judge, lawyers, doctors and families

The Palestinian Authority should ensure that all those arrested are automatically brought before a judge without delay after arrest. All detainees should be allowed prompt, regular and confidential access to lawyers and doctors of their choice after arrest; in no case should this access be delayed for more than 48 hours. Lawyers and doctors should be promptly provided for detainees without means. Families should be immediately notified of the arrest and location of the detainee. Access to families should be prompt and regular.

3) End Torture

Make it clear to all law-enforcement personnel that the use of torture is outlawed; separate the authorities in charge of detention from those in charge of interrogation and ensure that detention and interrogation centres are independently inspected. Investigate all complaints of torture and ill-treatment promptly and impartially in accordance with international standards.

4) End impunity

Ensure that thorough, independent investigations are conducted whenever procedural irregularities and torture or ill-treatment are alleged to have taken place. Ensure that the findings of investigations are made public and that those responsible for torture and ill-treatment are brought to justice.