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£ISRAEL AND THE OCCUPIED TERRITORIES

@Death by shaking: the case of 'Abd al-Samad Harizat

"Each State Party shall take effective legislative, administrative, judicial and other methods to prevent acts of torture in any territory under its jurisdiction." United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) Article 2.

"There is no doubt whatsoever about the cause of death and it's very clear he has died from unnatural causes and that he has died from torture". Derrick Pounder, Professor of Forensic Pathology at the University of Dundee in Scotland, after the autopsy on 'Abd al-Samad Harizat.

'**Abd al-Samad Harizat**, a 30-year-old computer expert who worked for the al-Bunyan Centre in Hebron, was arrested from his home in Hebron during the night of 21 to 22 April 1995. Around 6pm on 22 April he was taken to hospital in a coma. He died on 25 April 1995 without regaining consciousness.

Members of the Israeli Defence Force (IDF) and the General Security Service (GSS, Israel's main internal security agency) came to the house around midnight on Friday 21 April. 'Abd al-Samad Harizat came out. He was reportedly handcuffed to the front of one of the trucks while the security forces carried out a search of the house. However, according to his family, nothing appeared to have been taken away. Officials later stated that 'Abd al-Samad Harizat was arrested on suspicion of membership of *Hamas*, the Islamic Resistance Movement, and activities in the 'Izz al-Din Qassam brigades, the military wing of *Hamas*¹.

Towards 2am the search ended and 'Abd al-Samad Harizat was taken away by the IDF/GSS members. He appears to have been taken to Hebron Police Station and then transferred almost immediately to the Moscobiyyah Detention Centre in Jerusalem. The Moscobiyyah Detention Centre has, for years, been cited as a place in which detainees have been subjected to systematic torture or ill-treatment, including a combination of hooding², beatings, shaking, prolonged sleep deprivation while standing or sitting in painful positions and other methods.

It is normal for all detainees to be medically examined immediately after arrest, either by a doctor or a medical orderly, and apparently this was done. During the afternoon of the same day, 22 April 1995, a medical orderly was called and found 'Abd al-Samad Harizat unconscious. However, he was not transferred to hospital immediately. It was only an hour later when, not having recovered consciousness, he was taken to the Hadassah Hospital in 'Ain Karem in a coma.

¹'Abd al-Samad Harizat had been detained twice previously, in October 1994 and January 1995 and released without trial on both occasions.

²The detainee's head is covered almost continuously by a foul-smelling hood.

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After 'Abd al-Samad Harizat's arrest his family had tried to find out where he was, without success. It was only around 9pm on Sunday, 23 April, when 'Abd al-Samad Harizat had already been in a coma for over 24 hours, that a representative of the Hebron Civil Administration, accompanied by a member of the GSS, came to see his family. They did not tell them that anything had happened but gave 'Abd al-Samad Harizat's mother and brother a permit to enter Jerusalem to go to the Moscobiyyah Detention Centre to visit him³. The family said that the authorities who came to the house said that 'Abd al-Samad Harizat was "a little tired" and were persistent in asking about his medical condition and insisting that the family bring all his medicine and recent medical reports. The family replied that he was in good health, he was not taking any medicine and there were no medical reports⁴.

Around 9.30am on 24 April, 'Abd al-Samad Harizat's mother and his brother, 'Abdullah, went to the Moscobiyyah Detention Centre. After waiting some time for an interpreter they were each reportedly questioned again about 'Abd al-Samad Harizat's supposed illnesses. His mother said that when she was asked repeatedly whether he drank or took drugs, she cried out, "Have you killed him?" Over 40 hours after he had fallen into a coma, his family was told that he was unconscious in hospital and was given authorization to see him.

According to his mother and brother, when they arrived at the hospital they found 'Abd al-Samad Harizat's body cold with no sign of life. There was an oxygen mask over his mouth, a tube from his arm which appeared not to be connected to anything, and a monitor in the room, not registering anything and which did not appear to be attached. 'Abd al-Samad Harizat's mother said he was still shackled to the bed but she could not detect any pulse beat and was sure that her son was dead⁵. After some hours the family left. On 25 April 1995 they heard on the radio that 'Abd al-Samad Harizat had been pronounced dead in the early hours of the morning. According to the family no Israeli official had told them this news before the radio announcement.

The Autopsy

"For the purposes of this Convention, the term 'torture' means any act by which severe pain or suffering is intentionally inflicted on a person for such purpose 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". Convention against Torture Article 1(1).

³Palestinians from the Occupied Territories are not allowed to enter Jerusalem without a pass. Barriers manned by the IDF, surround the city.

⁴There was an old medical report about a malformation in his knees. The only thing that set 'Abd al-Samad Harizat apart physically was that he was short and slight in build measuring only 151 centimetres in height and weighing only 44.5 kilograms.

⁵'Abd al-Samad Harizat had, in fact, already been pronounced brain dead at 1am on 24 April by a doctor sent by the Department of Investigations of Police.

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Two Israeli forensic pathologists conducted the autopsy on 'Abd al-Samad Harizat on 27 April 1995. Professor Derrick Pounder, Professor of Forensic Pathology at Dundee University in Scotland, observed the autopsy on behalf of the family. None of the forensic pathologists were permitted to visit the site of 'Abd al-Samad Harizat's interrogation⁶ and no information was given them before the autopsy "for reasons of security".

According to the report of Professor Pounder, 'Abd al-Samad Harizat had been "in good general health at the time of his arrest and ... natural disease played no part in the death".

"The pattern of injuries was equally remarkable for what was not present as it was for what was present.

"Bruising to the body was almost entirely concentrated on both sides of the upper chest. The only other area of bruising was on the right ankle and this is likely explained by the use of shackles...

"There were no injuries to the neck, face or scalp and there was no fracture of the skull nor of the facial bones. There was a haemorrhage within the skull overlying the brain at the top of the head on the right side (right parietal sub-dural haemotoma). A haemorrhage of this type is produced as a result of sudden jarring movements of the head, as a consequence of which shearing forces sever small blood vessels bridging the space between the brain and the inner surface of the skull. Such a haemorrhage may be produced as a result of an impact to the head or face but in the case of Mr Harizat there was no injury to the head or face to account for it. Such a haemorrhage may also be produced by violent shaking of the person and this is well described in young children ("the shaken baby syndrome"). . .

"The bruises to the front of the upper chest are consistent with repeated blows, possibly in association with shaking while gripping the clothing, or alternatively forceful gripping. The pattern of injuries to the upper chest and the presence of the sub-dural haemorrhage taken together suggests that the method of injury was violent shaking".

The autopsy report of the two Israeli forensic pathologists, dated 28 May 1995, stated that:

"... We hereby give our opinion that ['Abd al-Samad Harizat's] death was caused by acute pneumonia with multisystem failures following severe brain edema with subdural and arachnoidal haemorrhage in the brain and acute damage to nerve fibers.

"In addition, superficial subcutaneous haemorrhage was found in the upper part of the anterior chest and shoulders with acute inflammatory reaction.

"The damage to the nerve fibers taken together with the brain edema and the haemorrhage between the membranes but without other types of damage in the head and neck fit with brain damage due to rotational acceleration of the head without direct injury and/or indirect injury to the head."

⁶This appears to breach Article 12 of the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions which states that "those conducting the autopsy shall have the right to all investigative data, to the place where the body was discovered, and to the place where the death is thought to have occurred".

Torture and ill-treatment in Israel and the Occupied Territories

"Each State Party shall ensure that all acts of torture are offences under its criminal law". Convention against Torture, Article 4(1)

Israel ratified the United Nations (UN) International Covenant for Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1991⁷. These 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". As a state party to these treaties, the Israeli Government is bound to implement their provisions.

Yet, in Israel, members of the security services are officially authorized to use torture and cruel, inhuman or degrading treatment in their interrogation of suspects.

The GSS is the security agency responsible for the interrogation of many of those ultimately tried before military courts, particularly those suspected of more serious offences. It is directly under the control of the Prime Minister. Their interrogation wings are located in prisons and detention centres and the International Committee of the Red Cross does not have access to them.

In 1987 a Commission of Inquiry headed by Chief Justice Landau (the Landau Commission) authorized the GSS to use "a moderate measure of physical pressure" in their interrogation of "security" detainees. The Commission used the concept of "the lesser evil" to state that "actual torture...would perhaps be justified in order to uncover a bomb about to explode in a building full of people" (para 3.15). Although the Commission goes on to state that "the pressure must never reach the level of physical torture or maltreatment of the suspect or grievous harm to his honour which deprives 9dddPdd@dddPdd@9him of his human dignity", the image of the ticking bomb has been used repeatedly by the Israeli authorities to justify methods which constitute torture.

The guidelines of what treatment is allowed during interrogation have never been made public⁸. But Amnesty International and other human rights organizations have documented a consistent pattern of torture and ill-treatment of detainees during interrogation which includes hooding; prolonged sleep deprivation, usually combined with *shabeh* (position abuse, whereby the suspect is kept sitting or

⁷However, a number of important reservations made by Israel limited the application of these treaties. These reservations include Israel's failure to make a declaration under Article 22 recognizing the competence of the Committee to receive and consider complaints from or on behalf of individuals.

⁸See *Israel and the Occupied Territories: The military justice system in the Occupied Territories: detention, interrogation and trial procedures* (AI Index: MDE 15/34/91), pp.50-57, and *Israel and the Occupied Territories: Torture and ill-treatment of political detainees* (AI Index: MDE 15/03/94), pp.8-13, for a fuller discussion of the Landau Commission.

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standing in a painful position); violent shaking; beating on various parts of the body, including pressure on the testicles; confinement to closet-sized rooms; continuous exposure to raucous music; exposure to extremes of heat or cold; restrictions on time allowed for eating or going to the toilet⁹.

The United Nations Committee against Torture, a body of experts set up to monitor the implementation of the Convention against Torture by states parties to the Convention, stated in its conclusions and recommendations issued in April 1994 after consideration of Israel's initial report that:

"8. The committee regrets the clear failure to implement the definition of torture as contained in Article 1 of the Convention..."

"10. The Landau Committee Report, permitting as it does "moderate physical pressure" as a lawful mode of interrogation, is completely unacceptable to this Committee..."

"11. The Committee is greatly concerned at the large number of heavily documented cases of ill-treatment in custody that appear to amount to breaches of the Convention including several cases resulting in death..."

'Abd al-Samad Harizat was shaken to death. Violent shaking works quickly and, though it may cause death or brain damage, it leaves little or no mark on the body. It is a form of torture rarely reported outside Israel and the Occupied Territories. However, in Israel and the Occupied Territories shaking is still authorized by a ministerial committee¹⁰.

The shaking of detainees has been documented since the 1980s but seems to have been increasingly used in recent years as an additional and very severe means of "physical pressure". Detainees have reported that they have been shaken violently and continuously for several minutes and that the shaking was repeated at intervals over a period of time. The detainee, whose resistance is frequently weakened by sleep deprivation, *shabeh*, and other forms of torture or ill-treatment, may be standing or sitting. According to detainees' testimonies, the normal sitting position for shaking is with the legs shackled below a low chair and the hands handcuffed behind and between the back bars of the chair; this diminishes the support for the detainee's back and thus his ability to resist violent shaking. Detainees have frequently reported falling unconscious during shaking. One detainee, whose testimony is cited by Human Rights Watch, states:

"An interrogator called 'Captain Benny' stepped on the chain linking my legs, while my hands were tied behind my back. He grabbed my shirt collar, bent me backward at a 45° angle and began to shake me very hard. When he did this I felt as if I was choking. I couldn't feel my neck, as if it was not even there. The first time he did this I fell to the ground and fainted".¹¹

⁹Following a review of the Landau Commission guidelines in 1993, the authorities stated that exposure to temperature extremes, food deprivation or denial of access to the toilet were not permitted. However, detainees continue to complain of these interrogation methods.

¹⁰The ministerial committee which oversees the GSS is composed of the Prime Minister, the Minister of Justice, the Minister of Police and the Minister of the Environment.

¹¹*Israel's Interrogation of Palestinians from the Occupied Territories*, Human Rights Watch/ Middle East, New York 1993, p.188.

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Another detainee, interviewed by Amnesty International, said:

"...Dori and Cohen started shaking me again with great force. When one of them got tired, the other started. I fainted. They brought water, threw some on me, and brought the medic. He told them: 'This one is very ill'. They said: 'We know'. He left. They put me in *shabeh* and went out."¹²

The Police Investigation

"An order from a superior officer or a public authority may not be invoked as a justification of torture."
Convention against Torture, Article 2(3).

The report of the investigation into the death of 'Abd al-Samad Harizat conducted by the Department of Investigations of Police (DIP), a department of the Israeli Ministry of Justice, has not been made public. Even the lawyer of the Harizat family was initially only allowed to receive the conclusions of the report. As regards the manner of his death, the report confirms that 'Abd al-Samad Harizat was shaken before his death. It states:

"During his interrogation the interrogators seized the clothes on the front part of his body and shook him roughly, and repeated this action several times until midday.

"The DIP has in its possession evidence that appears to indicate that in the early hours of the afternoon the deceased was shaken roughly a further number of times by the interrogator in a manner other than described above, namely by seizing him by the shoulders. Shortly afterwards he lost consciousness and the interrogation was terminated..."

Later, at the specific request of 'Abd al-Samad Harizat's lawyer, information was given about the number of times he was shaken. According to the information provided by the authorities, he was first interrogated from about 4.45am until 10.30am by one interrogator assisted at times by three other interrogators. During this time he was shaken eight times, allegedly by holding his clothes. From 10.30am until 1.45pm he was interrogated by one interrogator, and allegedly shaken once in the same manner. Between 2pm and 4.10pm he was interrogated by two other interrogators during which time he was shaken three times, once by holding his shirt and twice by holding his shoulders.

The police investigation requested an "expert opinion" on the official autopsy report from Dr Y.Hiss, Director of the Institute of Forensic Medicine. The expert opinion made two statements in particular which formed the basis of two important medical assumptions of the DIP report:

"The mechanism by which the angular acceleration of the head causes severe and irreversible damage to the brain is rare in medical practice. It is usually known only to physicians and scientists who specialize in brain diseases and brain damage and in forensic medicine and has been investigated in depth only in the early nineteen eighties".

¹²Testimony of 'Abd al-Naser al-Qaysi, cited by B'Tselem, 1994.
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"Shaking the head and trunk in a forward-backward motion while holding the shirt collar or lapel of the subject and while pressing the cloth to his nape, provide relative stability to the head seated on the neck and prevents rotatory movements of the head (which cause severe damage to the nerve axons). If the shaking is done while holding the shoulders this protective mechanism is lost".

It seems almost certain that shaking is included in the treatment permitted by the secret Landau Commission guidelines. However, although this is not explicitly stated, both Dr Hiss' report and the DIP report appear to suggest that shaking by the clothes only is permitted, while shaking by the shoulders is not in the Landau guidelines. This may explain the statement that concludes Dr Hiss' report:

"It is reasonable to assume that the lethal damage to the brain was caused by shaking the deceased while being held by the shoulders and/or the clothing covering his shoulders, although it is not possible to exclude the possibility that the damage to the brain was cumulative and was caused, at least in part, by shaking the deceased by holding the collar or the lapel of his shirt. This also applies to the event of shaking by holding the shoulders"¹³.

The conclusion of the DIP report recommends that no legal action should be taken against the interrogator involved in shaking 'Abd al-Samad Harizat for two reasons. Firstly, because

"it is clear that the interrogator who shook the deceased by his shoulders was neither able nor expected to have anticipated the fatal outcome of his actions or indeed the irreversible damage caused to the brain due ... to the rarity of such actions, to the extent that it is familiar only to doctors and scientists specialising in brain diseases and brain trauma.

Secondly, because of

"the difficulty in proving, to the degree of certainty required by criminal law, the causal link between the said interrogator's action and the death of the deceased".

By failing to make public the methods and findings of the report the Israeli Government has breached Article 17 of the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

The Subsequent Validation of Shaking

"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". Convention against Torture, Article 2(2).

¹³In an equally convoluted argument, it thus becomes impossible to bring one person to face criminal charges because: (a) the main "shaker", who shook by the clothes, was presumably shaking according to the Landau guidelines; (b) the later shaker, who shook by the shoulders, may have been shaking not according to the guidelines but, "the causal link between the said interrogator's action and the death of the deceased" is difficult to prove to the degree of certainty required by criminal law.

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The death of 'Abd al-Samad Harizat sparked off a wide public debate in Israel on torture, particularly on the use of shaking as a means of torture which had now been shown to kill.

Andre Rosenthal, the lawyer of 'Abd al-Samad Harizat and later of his family, petitioned the High Court of Justice requesting the authorities to provide him with the official autopsy report on 'Abd al-Samad Harizat and the report of the DIP investigation. The authorities produced the autopsy report and only the conclusions of the investigation on 6 June 1995, one day before the case was due to come to court. The lawyer then petitioned the High Court to obtain all the material from the DIP investigation into 'Abd al-Samad Harizat's death. In answer to his request to know the number and times of shaking, he was later given the schedule referred to above (on p.7). In September the High Court ordered that he be given further parts of the police report. He had earlier been informed that he would be able to appeal against the failure of the authorities to bring a criminal prosecution against those responsible for the death despite the fact that the 30-day time limit for such action had expired.

Local human rights organizations took simultaneous action. The Association for Civil Rights in Israel filed a suit before the High Court of Justice seeking an injunction against the practice of shaking. Initially due to be heard on 16 August, the hearing of the case was postponed to 13 September 1995. At that hearing the High Court ordered the ministerial committee which oversees the GSS to present an affidavit within 60 days explaining the legality of "shaking".

On 30 August 1995 the Public Committee Against Torture in Israel and the Association of Israeli and Palestinian Physicians for Human Rights sought an injunction in the High Court against shaking and filed manslaughter charges against those believed to be involved in the fatal shaking of 'Abd al-Samad Harizat. These included the interrogators said to have carried out the shaking and who were therefore directly involved in the death of 'Abd al-Samad Harizat; the GSS officials who authorized the use of shaking; the head of the GSS; the ministerial committee; and the Attorney General, Dorit Beinisch, for her decision to accept the DIP report and not to prosecute the interrogators.

The debate included the Israeli Government and officials. On 6 May 1995, the Minister of Justice, David Liba'i, was quoted in the newspaper *Ha'aretz* as questioning the use of shaking and saying that he might recommend that some of the means of interrogation permitted by the Landau Commission should be cancelled.

In July 1995 the ministerial committee which oversees the GSS met and were reportedly divided as to whether to allow an extension of the "exceptional dispensation" granted to the GSS to use increased physical pressure. The dispensation, which had been given at a meeting of the ministerial committee in October 1994 after a suicide bus-bombing in Tel Aviv claimed by *Hamas* which killed 23 people, had been renewed for three months at a time until July. It was then renewed for about one week periods until the committee's meeting on 16 August 1995. The Legal Advisor to the Israeli Government, Michael Ben Yair, was widely reported to be concerned about the use of shaking and to have questioned its legality.

The Knesset (parliament), the media and the public were exposed to a number of reports to suggest that torture in the form of shaking was an effective means of gaining information. The GSS reported to the ministerial committee on 6 August that 48 attacks had been foiled over the past six months as a result of special interrogation methods. At a meeting of the ministerial committee on 16 August the exceptional

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dispensation to use increased physical pressure was renewed until October 1995. The committee apparently stated that shaking was no longer "regular" and would continue to be used, but only with the special authorization of the head of the GSS.

On 21 August 1995 a suicide bus-bombing in Jerusalem, also claimed by *Hamas*, killed four people and wounded 80 others. On 24 August, the head of the GSS announced that, after the bombing, authorization had been given to shake two Hamas militants, Naser 'Isa and Hatem Isma'il, who had been arrested on 20 August and they had confessed to prior knowledge of the bombing. These confessions had also enabled the GSS to discover a bomb factory. Following that, on 31 August, the committee set up by the Knesset to examine the incorporation of the CAT into Israeli law¹⁴ recommended that torture should be made a special offence, punishable by 10 or 20 years imprisonment. However, the Committee also recommended legislation authorizing the GSS "explicitly to conduct interrogations and to use the legal means at its disposal".

The assertion that suicide bomb attacks have been prevented by GSS interrogation techniques which amount to torture cannot be independently verified. International human rights treaties to which Israel is a State Party allow of no exceptional circumstances under which torture is permitted. The misuse of the "ticking bomb" argument has allowed the systematic torture of thousands of Palestinians. In July 1995 Prime Minister Yitzhak Rabin is quoted as saying that shaking has been used against "8,000 prisoners, but nothing wrong happened" - it is unlikely that all the 8,000 Palestinians whose lives and health were endangered had placed "ticking bombs".

Amnesty International's Work

"Each State Party shall make [acts of torture] punishable by appropriate penalties which take into account their grave nature". Convention against Torture, Article 4(3).

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 provides for up to three years' imprisonment for a public servant who

"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 offence or information relating to an offence". Article 277(1)

There have been a number of occasions over the last few years when Palestinian detainees have died during interrogation by the GSS and other branches of the Israeli security services. Members of the teams interrogating those who died have been rarely prosecuted.

¹⁴The committee, set up in 1993, was headed by Michael Ben Ya'ir and made up of the Attorney General, the Deputy Attorney General, the Head of the GSS, the Head of the Police, and the Legal Advisor of the Security Forces.
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During 1992 and 1993 at least three Palestinians died after having been tortured or ill-treated during interrogation¹⁵.

• **Mustafa 'Akkawi** died in custody in February 1992. According to a pathologist who attended the autopsy on behalf of the victim's family, death was caused by a heart attack triggered by emotional and physical pressure, and exposure to the cold with medical negligence a contributory factor.

• **Mustafa Barakat** died in August 1992 about 36 hours after arrest. A pathologist representing his family found that he had died during an acute asthma attack brought about by conditions in detention, and also that he could have been subjected to "extreme mistreatment".

• **Ayman Nassar** died in Barzilai Hospital in April 1993, 13 days after his arrest during a military operation in which a smoke bomb was used. He was allegedly beaten immediately after arrest. According to a Danish pathologist who attended the official autopsy, Ayman Nassar died from "pneumonia due to ruptured lung blisters...presumably due to irritating smoke...and possibly influenced through beating on the chest". Israeli authorities told Amnesty International in February 1994 that a coroner's inquest had been initiated but no copy of any coroner's report has been received by the organization.

In these and other cases Amnesty International called on the Israeli Government to carry out a full investigation into the causes and full circumstances surrounding the death and to ensure that anyone involved in torture or ill-treatment should be brought to justice. Investigations initiated by Israeli authorities do not appear to have been carried out by an independent or impartial body and have highlighted the medical problems of those who died in custody. They have repeatedly failed to address the evidence that torture could have been a contributory factor to the death.

'Abd al-Samad Harizat's family's account of the Israeli authorities' repeated probing aimed at discovering any medical conditions from which 'Abd al-Samad Harizat may have suffered suggests that in this case too the authorities wished to show that a death in custody was due to anything but torture. But it so happened that 'Abd al-Samad Harizat was in good health at the time of his sudden death.

On 4 May 1995 Amnesty International wrote to Prime Minister Yitzhak Rabin expressing its concern at the death in custody of 'Abd al-Samad Harizat and asking that anyone found responsible for his death, including those responsible for giving permission to use this kind of force during interrogation, should be brought to justice. The organization also reminded Israel of its obligation under the UN Convention against Torture to provide compensation to the family of anyone who dies as a result of torture.

On 11 May 1995 Amnesty International made public a report entitled *Israel and the Occupied Territories including the areas under the jurisdiction of the Palestinian Authority: Human rights: A year of shattered hopes* (AI Index: MDE 15/07/95). This report detailed cases over the past year in which Palestinians

¹⁵At least five other detainees have committed suicide since 1992 in circumstances where stress caused by physical or psychological torture could have contributed to their death. One 17-year-old from Gaza, died in May 1992 10 days after his release from detention. The autopsy report stated that no reason could be found for his death. A Danish pathologist who represented the family at his autopsy said that it was "justifiable to conclude, that in all probability, one way or another, death was a consequence of the described detention period and the alleged torture".

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had been subjected to torture and ill-treatment by the Israeli authorities while under interrogation and expressed concern at the "exceptional dispensation" allowing increased pressure. The organization stated that the "creation of a category of alleged 'terrorist' detainees against whom interrogation methods which may amount to torture may be used is unacceptable". It also expressed concern at torture and ill-treatment of detainees and deaths in custody in circumstances where torture may have played a part in their death in the areas under the jurisdiction of the Palestinian Authority.

In August 1995 Dr Karin Helweg-Larsen, a Danish forensic pathologist, and Dr Gorm Wagner, a Professor of Physiology at the University of Copenhagen, visited Israel and the Occupied Territories with a staff member of the International Secretariat of Amnesty International. They received testimonies of torture and ill-treatment described by the detainees, and met human rights organizations and representatives of the Israeli Medical Association, the Israeli Psychiatric Association and prison medical staff.

After reviewing the evidence of shaking, the doctors concluded that it produces "symptoms of commotion of the brain, including unconsciousness, sharp headache, eye and ear symptoms, pain in neck and back and may provoke chronic symptoms due to minor or moderate brain damage". They examined one detainee, a male student in his 20s who had been violently shaken over a period of time, and found signs compatible with damage of the central nervous system which were consistent with damage from shaking. Dr Wagner, who asked to have a demonstration of the type of shaking administered to detainees and allowed himself to be shaken for only three seconds, reported suffering from muzziness in the head for five hours and neck and back pain for 12 hours.

On 16 August 1995 Amnesty International repeated its call for an end to torture in Israel and the Occupied Territories. The organization also called for medical examinations to be carried out on all former detainees who had suffered shaking during interrogation.

Conclusions

(1) Shaking is just one of a number of methods of torture or ill-treatment officially sanctioned by the Israel Government and systematically used by the Israeli security forces against Palestinian detainees. Other interrogation techniques include continuous hooding; prolonged sleep deprivation; prolonged standing or sitting in painful positions; beating; confinement to closet-sized rooms; exposure to heat or cold; psychological pressure by threats and insults.

(2) The police investigation into the death of 'Abd al-Samad Harizat did not comply with the requirement of Article 17 of the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions that

"A written report shall be made within a reasonable period of time on the methods and findings of such investigations [into suspected cases of extra-legal, arbitrary and summary executions]. The report shall be made public immediately and 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. The report shall also describe in detail specific events that were found to have occurred, and the evidence on which such findings were based, and list the names of witnesses who testified with the exception of

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those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it."

(3) Shaking of detainees may cause death or irremediable brain damage. Forensic pathologists have agreed that shaking caused the death of 'Abd al-Samad Harizat. The death or brain damage caused to babies by shaking (the "shaken baby syndrome") has been discussed in medical literature. However, the DIP investigation recommended that the interrogator who shook 'Abd al-Samad Harizat should not be subject to criminal prosecution as he

"was neither able or expected to have anticipated the fatal outcome of his actions or indeed the irreversible damage caused to the brain due...to the rarity of death by such actions, to the extent that it is familiar only to doctors and scientists specialising in brain diseases and brain trauma".

The Israeli Attorney-General accepted this opinion.

Now, since the autopsy on 'Abd al-Samad Harizat, able to anticipate "the fatal outcome of [their] actions" and "the irreversible damage caused to the brain" the Israeli Government has continued to authorize the shaking of detainees.

(4) Neurological problems consistent with the effects of having been violently shaken have been found on former detainees who have reported being shaken in detention. Amnesty International cannot rule out the possibility that a significant number of former detainees may today be suffering from neurological damage or other medical problems as a result of shaking at the hands of Israeli interrogators.

Recommendations

- 1) All methods of torture should be prohibited by law. No exception should be allowed to this prohibition.
- 2) The Israeli Government should demonstrate that all interrogation guidelines are fully consistent with international absolute prohibition of both torture and ill-treatment.
- 3) Medical examinations should be carried out on all detainees and former detainees who have suffered shaking. Those found to be suffering from neurological complications which might have been caused by shaking should be given access to free medical treatment and given compensation.
- 4) Prompt, independent and impartial investigations should be conducted into allegations or evidence of torture or ill-treatment. Their methods and results should be fully available to the public. Any official responsible for torture or ill-treatment should be brought to justice.
- 5) The Israeli Government should withdraw all reservations from the Convention against Torture. In particular, it should make a declaration under Article 22 recognizing the competence of the UN Committee against Torture to consider complaints from or on behalf of individuals.