

EXTERNAL

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EXTRA 52/97

Fear of torture

17 April 1997

ISRAEL/OCCUPIED TERRITORIES Ayman Mahmud Hassan Kafisha
(ID no: 9-2505838-9)

Ayman Mahmud Hassan Kafisha, arrested on 5 April 1997 on suspicion of involvement in a *Hamas* bombing in Tel Aviv in March which killed three women, is being held in incommunicado detention. Amnesty International fears that he is being subjected to torture during interrogation.

Ayman Kafisha is being held at Shikma Prison (formerly called Ashkelon Prison).

His lawyer, Andre Rosenthal, working with the Israeli human rights organization *HaMoked*, has been denied access to him by General Security Service (GSS) order until 19 April. The lawyer appealed to the Israeli Supreme Court sitting as the High Court on 8 April for access to his client. The appeal was heard on 9 April and was denied on security grounds.

On 10 April Ayman Kafisha's lawyer lodged a petition to the High Court requesting that the GSS be made to explain why it was not applying Article 277 of the Penal Code of 1977, which prohibits the use of physical force during interrogation and requesting an interim injunction against the use of physical force during interrogation. The High Court heard the case on 16 April and denied the petition.

The GSS response to his petition heightened the lawyer's concerns that his client was being tortured during interrogation, and so he lodged another petition requesting the High Court to ask the GSS to explain their actions.

He also again requested an interim injunction preventing the use of physical force during interrogation. This petition was submitted on 17 April but has not yet been heard. The lawyer asked the Appeal Court for the 30-day detention order (until 12 May) on Ayman Kafisha to be reduced.

Torture is absolutely prohibited under international law. This obligation cannot be derogated from under any circumstances. Article 2 (2) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Israel ratified in 1991, says "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."

Principles 1 and 7 of the UN Basic Principles on the Role of Lawyers state: "All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings."

"Governments shall further 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".

BACKGROUND INFORMATION

Amnesty International has for years expressed its concern that secret guidelines to the 1987 Landau report on the GSS allow the use of torture or ill-treatment. The Landau report allowed the use of "moderate physical pressure"; since October 1994 a special ministerial committee has allowed "increased physical pressure". GSS officers testifying in court admit using prolonged sleep deprivation,

position abuse by holding detainees for long periods standing or sitting in painful positions while deprived of sleep, and squatting (*gambaz*) for up to two hours at a time. Violent shaking (*tiltul*), which may cause brain damage, has been recorded for years and can be authorized by the head of the GSS. However, while admitting these methods are used, the Israeli Government denies that they constitute torture. Amnesty International does not agree; nor does the UN Special Rapporteur on Torture, who has referred to many of these practices as "methods of torture".

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English or your own language:

- stressing that governments are under solemn obligation not to allow any form of torture under any circumstances (quoting from UN Convention against Torture);
- urging that Ayman Mahmud Hassan Kafisha be treated humanely in accordance with international standards and that he be granted immediate and continuing access to a lawyer (quoting from UN Basic Principles above).

APPEALS TO:

1. Mr Binyamin Netanyahu
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Salutation: Dear Prime Minister

2. Mr Tzahi Hanegbi
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Salutation: Dear Minister

3. Mr Avigdor Kahalani
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Telegrams: Internal Security Minister, Jerusalem, Israel

Salutation: Dear Minister

COPIES TO:

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and to diplomatic representatives of Israel accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 12 May 1997.