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# “Under constant medical supervision” Torture, ill-treatment and health professionals in Israel and the Occupied Territories\*

Israeli health professionals working with the General Security Service (GSS)<sup>1</sup>—the security branch most involved in the interrogation of Palestinian detainees—form part of a system in which detainees are tortured, ill-treated and humiliated in ways which place current prison medical practice in conflict with medical ethics. It is a system which, Amnesty International believes, could not function without the acquiescence of health professionals responsible for the care of detainees.

Interrogation methods described in this report, such as prolonged sleep deprivation (usually while hooded) for long periods in painful, contorted positions, violent shaking, and threats are not denied by the Israeli authorities. But the authorities deny that such treatment constitutes torture. Such a denial is untenable. In April 1995 a detainee died from a subdural haemorrhage after violent shaking of the head and torso on 12 occasions over a 12-hour period. Yet an Israeli Ministerial Committee ruled in August 1995 that violent shaking during interrogation could continue.

Amnesty International has received no evidence suggesting that any Israeli doctor or other health professional assists actively in torture or ill-treatment. But Israeli doctors and paramedics are silent witnesses, participating in a system which denies the physical and mental integrity of the human being which health professionals are bound to uphold.

## **Introduction: the legal basis for torture**

Since 1987 the use of physical and psychological pressure against Palestinian detainees has been accepted by the Israeli Government as a necessary weapon in Israel’s fight against violent attacks from armed opposition groups.

### ***Landau Commission***

During the 1970s and 1980s torture against Palestinians was widely practised by the Israeli Defence Force (IDF) and the GSS, but was denied by these bodies and by the Israeli Government. In 1987 two scandals which suggested that the GSS was falsely denying ill-treatment of detainees led to the establishment of a Commission of Inquiry into GSS methods. This Commission, led by Chief Justice Landau, found that physical pressure against detainees was an accepted practice of GSS interrogators. The Commission accepted the arguments of security personnel and used the legal argument of “necessity” to authorize the use of physical and psychological pressure against those accused of “hostile terrorist activity”<sup>2</sup>. The argument of the “ticking bomb” was cited to support this. The use of “actual torture”, said the Commission report, “would perhaps be justified in order

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\*This report does not deal with the areas under the control of the Palestinian Authority (PA). Amnesty International has reported on human rights violations in PA-controlled areas elsewhere.

<sup>1</sup>Also known as the *Shin Bet* or *Shabak*.

<sup>2</sup> *State of Israel: Commission of Inquiry into the methods of investigation of the General Security Service regarding Hostile Terrorist Activity. Report, Part One* (English translation provided by the Government Press Office), Jerusalem, October 1987. The main discussion of the legal argument of “necessity” (which allows a lesser evil where there is no choice in order to prevent a greater evil) is in paragraphs 3.8-3.16 of the report.

to uncover a bomb about to explode in a building full of people" (para.3.15). The use of pressure against a suspect was a "lesser evil". 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 his human dignity" (para.3.16).

"The means of pressure should principally take the form of non-violent psychological pressure through a vigorous and extensive interrogation, with the use of stratagems, including acts of deception. However, when these do not attain their purpose, the exertion of a moderate measure of physical pressure cannot be avoided. GSS interrogators should be guided by setting clear boundaries in this matter, in order to prevent the use of inordinate physical pressure arbitrarily administered by the interrogator" (para.4.7).

In practice this has resulted in the effective legalization of some methods of torture. The means of pressure permissible are described in a "code of guidelines for GSS interrogators which define, on the basis of past experience, and with as much precision as possible, the boundaries of what is permitted to the interrogator and mainly what is prohibited to him"(para.4.8). These guidelines are secret; they are described in Part Two of the Landau Commission report which has never been published. The Director of the Prison Medical Service told an Amnesty International medical delegation visiting Israel and the Occupied Territories in August 1995<sup>3</sup> that the Landau Commission had invited doctors to advise them while they were drawing up the guidelines in the secret section of the report. The involvement of doctors in drawing up guidelines which allow violent and potentially lethal shaking, prolonged sleep deprivation, prolonged standing or sitting in painful positions, solitary confinement, hooding, and sensory deprivation, would clearly be in breach of the World Medical Association's *Declaration of Tokyo 1975*, which states, in Article 1:

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

The Landau Commission recommended or endorsed various measures to provide external control or supervision of the GSS. One such measure was the appointment of a Ministerial Committee under the Prime Minister, which normally meets once every three months. One of its tasks was to "reconsider the code of measures for applying pressure". Since October 1994, when 22 people were killed in a bus in Tel Aviv by a suicide bomber who belonged to the Palestinian armed opposition group *Hamas*<sup>4</sup>, the Ministerial Committee has allowed GSS interrogators an "exceptional dispensation" to use increased physical pressure.

## **Legislation**

<sup>3</sup> The delegates included two members of the Danish medical group of Amnesty International, Professor Gorm Wagner, a professor of medical physiology at the University of Copenhagen, and Dr Karin Helweg-Larsen, a Danish forensic pathologist.

<sup>4</sup> *Al-haraka al-muqawama al-Islamiyya*, the Islamic Resistance Movement. AI has appealed to *Hamas* and to other armed factions in Israel and the Occupied Territories to end the killing of civilians through suicide bombings or other forms of attack.

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In 1995 and 1996 two draft bills were put forward which might have effectively legalized torture by permitting the use of pressure during interrogations and offering impunity to GSS interrogators who used force. National and international protests may have played a part in persuading the Israeli Government to reconsider them. The definition of torture in the draft *Amendment —Prohibition on Torture Bill* now follows the definition of torture in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The *Proposed Law of the General Security Service, 1996*, introduced in January, was to be the first law regulating the GSS. This draft bill, known as the GSS Bill, accepted, in Article 9(a), the use of "pressure" against those interrogated in certain defined circumstances "to prevent actual danger to the security of the state" and when "no other reasonable way exists to prevent said danger". Article 9(b) stated that methods which might be used by GSS interrogators should not cause "severe pain or suffering" or be "cruel or inhuman". A phrase in the article stipulating that the methods used by a GSS interrogator "will not injure the interrogee's health" incorporates in law the part played by health professionals in providing the medical supervision which allows the system of torture to function in Israel and the Occupied Territories.

Protests against this law caused it to be shelved until after the 1996 elections held on 29 May. In February 1996 the then Minister of Justice, David Liba'i, told Amnesty International delegates, including the organization's Secretary General, Pierre Sané, that he would open the draft law for comments by university law departments and human rights organizations.

### **Health professionals and interrogation**

*"People of shabak [the GSS] now have a high sensitivity about the health of prisoners and they are trying to ensure that every prisoner has good treatment".<sup>5</sup>*

The system of interrogation of detainees in Israel appears to be designed to extract information or confessions without causing visible injuries or leaving marks which might be attributable to these techniques.

The doctors who visit and examine prisoners before and during interrogation by the GSS are normally members of the Prison Medical Service. The detention and interrogation wings are in separate buildings with the detention wing run by a separate service (the prison service, the IDF or the police). The doctor who examines the detainee in the detention wing is thus able to affirm that he has no first-hand knowledge of the conditions in which the detainee is interrogated. Palestinian detainees complain that even when they have visible bruises doctors rarely, if ever, forward complaints to the prison authorities, the Prison Medical Service, or the Department of Investigations of Police which is a department in the Ministry of Justice. Members of the Prison Medical Service told Amnesty International delegates that they had forwarded complaints of torture or ill-treatment; the cases they mentioned did not include any Palestinian detainees.

### ***The preliminary medical examination***

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<sup>5</sup> Director of the Prison Medical Service speaking to an Amnesty International medical delegation, August 1995.

Within the first 24 hours (or, at most, 48 hours) after arrest the detainee is taken for a medical examination. This is usually carried out by a paramedic (in Hebrew *hovesh*). In May 1993 a "medical fitness form" for use in interrogation centres was made public by the *Davar* newspaper. The form required doctors to certify whether a detainee would be able to withstand solitary confinement, tying up, hooding, and prolonged standing. After protests from many, including health professionals and local human rights groups, the Israeli Medical Association (IMA) instructed doctors not to use this form. The Israeli authorities suggested the form had been a mistake<sup>6</sup>.

However, the withdrawal of the form does not alter the fact that, in practice, one result of the preliminary medical examination is an assessment of the ability of the detainee to withstand torture. Members of the Prison Medical Service questioned by Amnesty International delegates in 1995 insisted that they never gave advice to interrogators. As one told Amnesty International:

"The doctor has to check the patient, make some diagnosis of his illness and make some recommendations about treatment. We don't relate to the investigation, we don't know about it, it's not in our interest to know. We have supersensitivity to this issue. It's important to keep our medical service in a high way of morality".

However, the use to which the medical assessment of the detainee's state of health is put is seen most clearly in the special treatment given during interrogation to detainees with medical problems. They are still tortured, but the torture is modified in relation to their medical state.

**Musa Masharqeh**, a 26-year-old economics graduate, was given a medical examination by a doctor in Ramallah Prison three hours after his arrest on 7 March 1995. As an asthma sufferer, he was given a Ventolin inhaler. Musa Masharqeh was not hooded with foul-smelling sacks like most detainees, but heavy, dark welders' glasses were placed over his eyes to create a similar sense of disorientation. Also his hands were handcuffed in front rather than, as is usual, behind his back, so that he might have access to his inhaler. His testimony states that he was subjected to prolonged sleep deprivation (he was permitted to sleep for one or two hours every 48 hours and at weekends); during this time he was forcibly held in painful positions (known as *shabeh*<sup>7</sup>),

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<sup>6</sup>According to a letter from Prime Minister Rabin to IMA President Dr Miriam Zangen, "the forms were drawn up out of concern for [prisoners'] health". However, a form was "accidentally distributed to the warden of Tulkarm Prison who put it to use". (Cited in: Human Rights Watch/Middle East. *Torture and Ill-treatment: Israel's Interrogation of Palestinians from the Occupied Territories*. New York, 1994.)

<sup>7</sup>*Shabeh*, sometimes translated as "position abuse", is used by detainees to describe the torture of being forced to stand or sit in painful positions. Detainees may be forced to sit on low kindergarten chairs which sometimes have no back or the front legs lower than the back ones; their legs are bent below the chair and their hooded head thrust forward. Or they may be tied to a pipe and have to remain standing, sometimes on tiptoe or with arms stretched up behind them, for long periods. Variations of *shabeh* are numerous and include the "frog-squat" (the detainee squatting like a frog) and the "banana" (when the head of the seated detainee is bent backwards to the ground). Detainees state that, during *shabeh*, guards keep them awake with a shake or a shove.

usually seated on a low, kindergarten chair; he was held in solitary confinement and exposed to cold; he was violently shaken several times; and he was threatened with death or the rape of members of his family. However, unlike most detainees he states he was given water whenever he asked for it.

Forms of torture: The "banana" position— the victim is held stretched backwards over a chair.

### **Medical Visits to Prisoners**

*"Farraj was under constant medical supervision...." [Ministry of Justice Fact Sheet, File No.842]*

The detainee under interrogation remains detained by the prison service, IDF or police, in a separate wing of the prison or detention centre. It is there, away from the torture, that he is visited by doctors<sup>8</sup>.

Detainees who have been in *shabeh* describe feeling "paralyzed"; "as though the blood had frozen in my arteries"; "my hands felt chopped off". Threats that the detainee would only leave interrogation paralyzed, mad, or even dead (the last usually accompanied by citing the names of those who have died in custody) form part of the psychological pressure of the torture. Detainees describe visits by doctors or paramedics as normally only cursory. Both doctors and paramedics

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Forms of torture: The "banana" position— the victim is held stretched backwards over a chair.

<sup>8</sup> However, paramedics reportedly also see detainees during interrogation while, for instance, they may be still held in *shabeh*. Amnesty International medical delegates in August 1995 were told by the Prison Medical Service that paramedics visited the interrogation wing every day, four times a day.

wear prison officers' uniforms and doctors rarely speak Arabic; such circumstances add to the detainee's feeling of isolation<sup>9</sup>.

**'Abd al-Rahman 'Abd al-Ahmar**, arrested on 15 February 1996 and interrogated for 40 days at the Moscobiyyah Detention Centre (also known as the "Russian Compound") in Jerusalem was, according to his affidavit, subjected to violent shaking with his hands handcuffed behind his back, then forced to sit on a very small chair.

"As a result you feel your stomach ripping apart and your back cracking....I began to vomit on my clothes.

"Once they sent me to the doctor who never checked me. All he gave me was two pills.... The interrogators constantly threatened me with causing me different diseases: 'You will only come out paralyzed—as you can see we have already started working on it'."

**Khaled Farraj**, a student at Bir Zeit University, was arrested on 12 March 1995. He stated that he suffered prolonged sleep deprivation while in *shabeh*, being forced to sit on a chair without a back while constantly being pushed backwards (the "banana") or to squat on his toes while interrogated by teams which changed every six hours.

"I started to vomit at that time [after 10 days' interrogation], but they didn't take me to see a doctor.

"I passed out three times at the Moscobiyyah [Detention Centre]. They brought me out of it but they did not call for the doctor. Once I fainted and a policeman called [...] threw some water on me and practically drowned me. They took me to the clinic, and the medic also threw water on me. Afterwards, they put something in my nose, to rouse me and took me back to shabeh. I stayed like that, wet and cold, until Sunday [three days later]."

The Israeli Ministry of Justice answered letters by Amnesty International members concerning Khaled Farraj's interrogation by stating that, according to the investigators:

"Farraj was under continuous medical supervision and his health was found to be satisfactory"<sup>10</sup>.

During their 1995 visit, Amnesty International medical delegates pressed members of the Prison Medical Service as to whether paramedics ever visited detainees whose heads were covered in sacking hoods. They refused to answer, even when delegates pointed out that the fact that prisoners were kept hooded was not denied by the Israeli Ministry of Justice. Dr Ziegelbaum, head of the Prison Medical Service stated:

<sup>9</sup> The Prison Medical Service told Amnesty International delegates that paramedics, who were usually able to speak some Arabic, acted as translators between doctors and Palestinian detainees who did not understand Hebrew.

<sup>10</sup> The Ministry of Justice "Fact Sheet" states that Khaled Farraj had failed to meet an investigator appointed to look into his complaints. Khaled Farraj stated that he was prevented on three occasions from visiting the Department of Investigations of Police at the Ministry of Justice by Israeli closures of the border, which meant that Palestinians from Ramallah were not allowed to enter Jerusalem, 13 km away.



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"As a doctor, the treatment of a patient begins with the complaint of the patient. When a patient sees a doctor he asks for a medical service. If the detainees complain he puts it in his diary and makes a medical diagnosis. The doctor is there to help him and to treat his illness. The doctors in prison don't accept the Landau guidelines. The guidelines given to doctors come from the Ministry of Health. There are not two ways to treat patients, only one way."

Amnesty International medical delegates pressed members of the Prison Medical Service on their apparent failure to investigate the treatment of detainees during interrogation and to raise complaints about ill-treatment or torture. One doctor from the Prison Medical Service then stated:

A common form of *shabeh* (position abuse) is forced standing for a prolonged period

"It's not his [the prison doctor's] job to investigate what the investigator is doing. In some cases ex-prisoners give their memories. Working in this place it is not his job to try to learn what kind of torture he is doing or not doing. If there is something extraordinary he should try to treat the case.... If you shake someone so hard of course, it's not good, it can hurt but it's not our responsibility to check each case".

On some occasions doctors are reported to provide treatment or to order rest for detainees who are then returned to interrogation. **Hani Muzher**, a student at Bir Zeit University, was arrested on 13 July 1994 and taken to Ramallah Prison for interrogation. He stated that he was interrogated for a week, suffering sleep deprivation while shackled in painful positions. He was threatened with suffering paralysis or going mad. Finding a razor in the toilet he cut his wrist in order to have a rest from interrogation. His medical records confirm that on 20 July he saw a doctor and told him that he had cut his wrist because he was tired. Hani Muzher's medical records show that the doctor stated that Hani Muzher was in a satisfactory physical condition. He 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.

A response from the 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 [Popular Front for the Liberation of Palestine] 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 convicted before a military court of membership of the PFLP, illegal possession of firearms and planning to kill, and sentenced to 28 months' imprisonment.

Another detainee, **Daher Muhammad Salah Abu Mayaleh**, arrested on 15 February 1996, was held in Ashkelon Prison where, he alleged at a remand hearing on 22 April 1996, he was violently shaken and was unconscious for five hours. The prison medical staff supplied medical records including a "certificate of fitness for detention" dated the day of arrest. None of the medical records provided by the prison showed a five-hour period of unconsciousness but, according to the prison clinic manager's evidence:

"On 18.3.96 I presented to the GSS interrogators a medical examination [report] according to which the condition of the detainee is normal. Recommendation: an hour's rest.

"I reached the wing, I examined him. He was not unconscious, he was lying down with eyes closed with no signs of injury. This was at 15:15. I gave him some ammoniac to smell".

Daher Abu Mayaleh was then returned to interrogation. According to his testimony he continued, over the next 30 days, to suffer torture including violent shaking and sleep deprivation while seated on a low bench.

"Frog-squat": prisoners can be kept in this position for prolonged periods or forced to leap repeatedly

#### ***Detainees in hospital***

Although prison medical staff insisted that they would ask for handcuffs to be removed from sick detainees in hospitals, consistent testimonies suggest that detainees in a critical condition have been handcuffed to their hospital beds without any security justification and that interrogators have been allowed into hospitals to interrogate them.

The family of '**Abd al-Samad Harizat** (see below, page 11) were permitted to see him only the day before his death after he had been in a coma for over 40 hours and was—according to the hospital medical report the night of his admission—already brain dead. They reported that he was handcuffed to his bed in the Hadassah Hospital, Ein Karem, Jerusalem.

In another case of coma after violent shaking during interrogation, **Bassem Tamimi**, born in 1967, arrested on 9 November 1993, was visited by an officer in the GSS two days after he regained consciousness in Hadassah Hospital.

"On the day after I woke up...the lawyer, Jawad Boulos, visited me...I knew from him that I was operated on for nine hours and was unconscious for five days.... On the next day, 17 November 1993, a captain came to visit me. I knew that he was a captain because he had three vine leaves. He started negotiating with me. He said that if I gave him information..., he would release me immediately on the conditions that I [had] requested."

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That day Bassem Tamimi was taken back to the Moscobiyyah Detention Centre. The detention centre refused to accept him because of his poor state of health and he was transferred to Ramleh Prison Hospital. He was released without charge on 6 December 1993.

### ***False reporting***

**Nader Qumsieh**<sup>11</sup> was arrested on 3-4 May 1993 and alleges that he was subjected to several sessions of torture in the Dhahariyyeh Detention Centre between 7 and 11 May. During this time he was forced to kneel for long periods with his hands tied behind his back and repeatedly hit around the face, and on his abdomen and genitalia. By 10 May his genitalia were extremely swollen and on 11 May he was taken to a doctor who examined him. During the same afternoon he was referred to Soroka Hospital where his discharge records from the casualty department describe a scrotal swelling. They add that Nader Qumsieh "received a blow to the scrotum two days ago".

A hand-written letter dated 17 May, addressed to the military commander of Dhahariyyeh and perhaps issued at the commander's request, was written by the same doctor who had provided the earlier record:

"According to the patient's words, he fell downstairs two days before recourse to the emergency room. The medical examination revealed a localized haematoma in the region of the scrotum, consistent with a local trauma which happened two to five days before the examination in the emergency room".

Nader Qumsieh denied that he ever told the doctor that he had fallen downstairs and stated that he had never been taken up or down any stairs at the Dhahariyyeh. It is unlikely that any such fall could have caused such an injury.

### **External humanitarian monitoring**

The fact that Palestinian detainees from the Occupied Territories receive visits from representatives of the International Committee of the Red Cross (ICRC) should provide an important safeguard against ill-treatment. According to the Israeli Government's agreement with the ICRC the latter should receive notification of detention immediately and visit the detainee from 14 days after arrest. The ICRC delegate can arrange treatment through an ICRC doctor but has no power to stop an interrogation while it is under way.

The testimony of a university student arrested in July 1994, who said he was beaten and violently shaken while shackled to a low chair and deprived of sleep, shows how torture and ill-treatment continues despite visits by doctors and the ICRC:

"I was one month in solitary confinement. After three weeks I saw someone from the ICRC and told him that I had blood in my 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 paramedic beat me, slapping me because I had asked for a doctor. The doctor came and afterwards came every day for a week and gave me pills. However,

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<sup>11</sup> See *Israel and the Occupied Territories: Doctors and interrogation practices: the case of Nader Qumsieh*, AI Index: MDE 15/09/93, August 1993.

they continued to interrogate me and hanged me by the arms for one and a half hours....”

The visit of the ICRC can make a difference to detainees at least in the short term, as in the case of Musa Masharqeh, in 1995 (although, according to his testimony, his interrogation continued for another 47 days).

“The Red Cross representative visited me on the sixteenth day. I told her what had happened. After three days they [the GSS] interrogated less.”

As a fundamental part of its working method, the ICRC has the right to make follow-up visits to detainees at times of their choosing. The organization works strictly confidentially, sending its findings only to the government concerned. However, on two occasions, in 1991 and 1992, it felt impelled to make public statements about the treatment of detainees in Israel. In 1991 it called on the Israeli authorities to “implement the recommendations it had already made”. In a press release of 21 May 1992 it made a stronger statement calling upon the Israeli Government “to put an immediate end to the ill-treatment inflicted during interrogation on detainees from the occupied territories”. The statement continued:

“By virtue of its mandate the ICRC has for many years conducted interviews in private with detainees under interrogation. It has reached the conclusion that to obtain information and confessions from detainees, means of physical and psychological pressure are being used that constitute a violation of the Convention<sup>12</sup>.

“The ICRC deeply regrets that the numerous and detailed reports it has regularly submitted to the Israeli authorities and its repeated representations at high government level have been to no avail.”

### **The Committee against Torture**

In 1991 Israel ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). The Convention, in its Article 2, bans all torture whatever the circumstances:

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

Article 16 similarly prohibits

“other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture...”.

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<sup>12</sup> This refers to the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War to which Israel has been a party since 1991. The Israeli authorities have consistently maintained that the Convention does not formally apply to the West Bank and Gaza Strip, although they have also repeatedly declared that Israel would respect, in practice, its “humanitarian provisions” without clearly specifying such provisions. The ICRC and the United Nations have consistently maintained that the Convention applies fully to the Occupied Territories.

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In 1994 Israel presented its first report on its compliance with its obligations under the Convention against Torture. In its own report, the Committee against Torture said that the Landau Commission Report "permitting as it does 'moderate physical pressure'...is completely unacceptable to this Committee". It added that it was "greatly concerned at the large number of heavily documented cases of ill-treatment in custody that appear to be breaches of the Convention including several cases resulting in death"<sup>13</sup>.

The United Nations Special Rapporteur on Torture advised the Israeli Government, by a letter dated 29 June 1994, "that he had continued to receive information indicating that persons detained for political reasons in the occupied territories were routinely subjected to various forms of torture and inhuman and degrading treatment".

Violent shaking, an approved technique of "moderate physical pressure", has resulted in the death of one prisoner.

### **The use of violent shaking**

On 22 April 1995 a detainee, 'Abd al-Samad Harizat, collapsed in a coma 15 hours after his arrest and died in hospital three days later without regaining consciousness. The Boston-based organization Physicians for Human Rights asked Professor Derrick Pounder, Professor of Forensic Pathology at Dundee University in Scotland, to observe the autopsy on behalf of the family. Professor Pounder's report of his participation and observation of the autopsy found that 'Abd al-Samad Harizat had died from a subdural haemorrhage which must have been caused by violent shaking. Professor Pounder's report concluded:

"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...The pattern of injuries to the upper chest and the presence of the subdural haemorrhage taken together suggests that the method of injury was violent shaking"<sup>14</sup>.

The police investigation found that between 4.45am and 4.10pm, when "he lost consciousness and the investigation was terminated", 'Abd al-Samad Harizat was violently shaken (in Hebrew *tiltul*: 'throwing around') on 12 occasions by at least four interrogators, on 10

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<sup>13</sup> *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, adopted by the United Nations General Assembly as resolution 39/46 on 10 December 1984; Israel's report is published as *Initial reports of States Parties due in 1992: Addendum: Israel* (CAT/C/16/Add.4 4 February 1994); and the Committee's comments in CAT/C/XII/CRP.1/Add.5 28 April 1994.

<sup>14</sup> See *Israel and the Occupied Territories: Death by shaking: the case of 'Abd al-Samad Harizat*, AI Index: MDE 15/23/95, October 1995; *Israel and the Occupied Territories: Shaking as a form of torture. Death in custody of 'Abd al-Samad Harizat*, a Medicolegal Report, PHR, Boston, October 1995.

occasions by holding him by his clothes and twice by holding his shoulders. The implication of the police report is that, although violent shaking by holding the collar is permitted under the Landau guidelines, shaking by holding the shoulders is prohibited.

‘Abd al-Samad Harizat was seen immediately after he lost consciousness by a paramedic but not by a doctor, and remained unconscious for one hour before he was taken to hospital<sup>15</sup>.

After the death of ‘Abd al-Samad Harizat a public debate took place about torture and particularly the use of violent shaking as a form of torture. On 16 August 1995 the Ministerial Committee which oversees the GSS stated that “shaking” could continue to be used, but only with the special authorization of the head of the GSS.

On 11 January 1996 the Supreme Court rescinded an injunction stopping physical force on a prisoner, ‘**Abd al-Halim Belbaysi**, who had been tortured and confessed to placing bombs. The Court argued that he might have additional information regarding attacks against Israelis. ‘Abd al-Halim Belbaysi’s lawyer, André Rosenthal, protested the use of violent shaking which had caused the death of one detainee, and asked that it should be forbidden. The request was refused.

A GSS disciplinary hearing in early June 1996 decided that the GSS member involved in the interrogation of ‘Abd al-Samad Harizat before his death should be given a disciplinary “warning” and a unanimous decision was made that he could continue working.

## **Action by health professionals against torture**

### ***The Israeli Medical Association***

The Israeli Medical Association (IMA) has, in the past, taken action to encourage its members to take a stand against torture. In May 1993 it instructed its members not to use the medical fitness form (see page 4). In 1993 at the request of the President of the IMA the Declaration of Tokyo was included in the IMA Bulletin circulated to all its members<sup>16</sup>.

In 1996, in response to letters from Amnesty International members expressing concern about a draft law which appeared to legalize torture, the IMA President and Chairman of the Ethics Committee wrote that:

“our organization has done its utmost to ensure that Israeli physicians neither directly, nor indirectly, participate in any acts of torture or other forms of mistreatment”.

However, action to ensure that doctors in charge of detainees under interrogation by the GSS play no part in condoning torture or knowingly or unknowingly helping it to continue, appears to have been limited. The Amnesty International medical delegation which visited Israel and the Occupied Territories in August 1995 met the IMA President, its Legal Adviser and the Chairman

<sup>15</sup> Another detainee, Bassem al-Tamimi (see above, page 8) had become unconscious after being shaken roughly several times by his shirt collar. He regained consciousness after six days, having undergone a nine-hour operation to remove a subdural haematoma. The Israeli Government stated that subdural haematomas may occur following trivial injury, that pre-existing haematomas may be exacerbated and it is not always possible to pinpoint the cause of such a haematoma.

<sup>16</sup> *Bulletin of the Israeli Medical Association Central Committee*, Tel Aviv, May 1993, p.9.

of its Ethics Committee. They also met the President of the Israeli Psychiatric Association (IPA). They were told that the IMA had no means of knowing whether the doctors who worked with the GSS were members of the IMA and suspected that most were recent immigrants from the former Soviet Union who were not members of the IMA.

The IMA's Legal Adviser suggested that to take a proactive role over this would be to get involved in politics and the IMA officers suggested that the best way to reach doctors was through education; medical journals and courses on medical ethics, which were already being held for prison doctors. The IMA stated that they could only act in response to a specific complaint and they had received none. The officers said that they had not previously seen a complaint submitted by the Public Committee against Torture in Israel (PCATI). AI delegates raised a complaint submitted by PCATI concerning the case of Musa Masharqeh. The IMA officers said they had not seen it, and promised to follow it up. A letter from Amnesty International to the IMA about the Nader Qumsieh case in August 1993 did not elicit a response from the association.

Amnesty International delegates called on the IMA to take active steps to ensure that Israeli doctors did not remain as silent witnesses to torture. The IMA promised to attempt to obtain lists of doctors working with the GSS and consider means of communicating with them.

#### **The work of non-governmental organizations**

#### **Why do physicians not report torture?**

A recent AI report—*Prescription for Change* [AI Index ACT 75/01/96]—discussed the reasons for the failure of health professionals in different countries to document and report human rights violations. These included physical or psychological pressure, economic or legal pressure, inadequate knowledge of ethics, and lack of clinical independence. In the case of the Israel, a complex weave of cultural factors, identity with military goals, sense of insecurity, the apparent *immigré* status of many of the doctors working in the prison service and the mixed messages coming from the authorities and the profession, appear to contribute to a view that intervention is 'political' and outside the legitimate activity or responsibility of the prison doctor.

Many Israeli and Palestinian non-governmental organizations play an active role in the fight against torture. Two particularly concerned about the role of doctors and other health professionals in torture are Physicians for Human Rights (PHR; formerly the Association of Israeli and Palestinian Physicians for Human Rights, AIPPHR) and the Public Committee Against Torture (PCATI). The recent literature concerning torture in Israel, including publication of seminar proceedings, case studies and works of research, mostly organized by NGOs, is too numerous to cite in full; some of the published conference proceedings are to be found in the Bibliography below.

One means of pressure used by human rights organizations has been the testing of laws regarding the practice of torture and ill-treatment before the Israeli Supreme Court. PCATI, represented by Attorney Avigdor Feldman, has brought cases before the Supreme Court against

the Landau Guidelines (1991) and has requested that the secret guidelines regulating physical and psychological pressure be made public (1993). After the death of 'Abd al-Samad Harizat, PHR and PCATI sought an injunction against shaking and appealed to the Supreme Court for the prosecution of those believed to be implicated in his death. PCATI also opened a case against members of the Ministerial Committee for allowing the use of "moderate physical pressure".

## Conclusion

Up to now the active efforts of some Israeli health professionals engaged in combating torture have not succeeded in reaching the doctors and paramedics in charge of the care of detainees interrogated by the GSS. These health professionals breach international standards by "countenancing or condoning" practices which constitute torture. A bureaucratic system has been developed in which doctors and paramedics—who preserve the health and sometimes the life of detainees under interrogation—form an indispensable part. Without the presence and the silence of doctors and paramedics this system might not survive. No Israeli doctor (including members of the Prison Medical Service) suggested to the 1995 Amnesty International medical mission that the practices described in this report and practised by Israeli interrogators do not constitute torture. Violent shaking, for instance, has already caused the death of one detainee and other detainees are known to have lost consciousness during such treatment. Yet violent shaking continues to be permitted.

Principle 2 of the United Nations 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 states that:

"It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment."

In reply to a question in the Knesset (the Israeli parliament) in 1992 as to whether physicians were briefed on the secret sections of the Landau report, the then Minister of the Environment, Yossi Sarid, a member of the Ministerial Committee overseeing the GSS, said:

"The physician is not briefed on the contents of the secret report. The examination is carried out according to accepted medical criteria and does not take into consideration the needs of the interrogation. In principle the physician has the authority to limit the duration or conditions of the interrogation."<sup>17</sup>

The present attitude of the Prison Medical Service is unacceptable. The methods of torture used by the GSS, while officially confidential, have been the subject of much public discussion in Israel, which the doctors could not have avoided noticing. If they do not know the conditions of interrogation, doctors have a duty to inform themselves of these as they have a direct bearing on

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<sup>17</sup> *The "New Procedure" in GSS interrogation: the case of 'Abd a-Nasser 'Ubeid*, B'Tselem, Jerusalem, November 1993, p.11. The Member of the Knesset who asked the question was Naomi Hazan of the *Meretz* Party.



prisoner care. Knowing that detainees are exposed to practices which deliberately harm their physical and psychological well-being, doctors have an ethical duty to refrain from declaring detainees fit for further ill-treatment or torture.

In continuing to give medical care which enables victims to be returned to torture, *without taking action to end such torture*, Israeli doctors and other health professionals in charge of Palestinian detainees under interrogation have allowed themselves, in violation of their professional ethics, to be a necessary part of a torturing system.

## **Recommendations**

Amnesty International makes the following recommendations to the Israeli Government and to the Israeli professional associations.

### **Israeli Government**

The Israeli authorities should end forthwith its use of torture or "moderate physical pressure" in the interrogation of Palestinian detainees.

In conformity with Article 10 of the Convention against Torture, all medical personnel working within places of detention should receive "education and information regarding the prohibition of torture".

All health professionals working within places of detention should be instructed that their first duty is to the well-being of the prisoners they serve and that they should always act in conformity with professional ethics.

### **Israeli professional associations**

Israeli professional associations should make a serious attempt to ensure that those health professionals working in places of detention are made aware of their legal and ethical responsibilities. Such material should be supplied, if necessary, in appropriate foreign languages.

The Israeli Medical Association should give consideration to establishing a commission to investigate the situation of doctors and paramedical staff working in places of detention to determine:

- the clinical and non-clinical pressures such staff face
- the adequacy of facilities available for the health care of prisoners
- the level of clinical independence with which work is carried out
- the level of language and other communication difficulties
- the avenues open to medical staff to seek advice on ethics or to communicate professional concerns about the treatment of prisoners
- any other factors relevant to the provision of health care to politically-motivated detainees.

The IMA should state to its members and to the public that techniques such as prolonged sleep deprivation, violent shaking and prolonged position abuse constitute torture or cruel,

inhuman or degrading treatment and that no health professional should be placed in a situation where he or she appears to condone them.

## **Bibliography**

The books, pamphlets and articles on torture in Israel are too numerous for this to be anything more than a very selective survey of some of what has appeared in English since 1987.

Legal criticisms of the Landau Commission were published in the *Israeli Law Review* (summer 1989). In 1990 the Association for Civil Rights in Israel and PCATI organized a seminar whose proceedings were published as *Moderate Physical Pressure: Interrogation Methods in Israel* (Jerusalem 1990). Proceedings of a symposium held in 1993 by PCATI and Mental Health Workers for the Advancement of Peace (IMUT) were published as *Dilemmas of Professional Ethics as a Result of the Involvement of Doctors and Psychologists in Interrogations and Torture* (Jerusalem, 1993). Papers based on proceedings of an international "Conference on the International Struggle against Torture and the Case of Israel" organized by AIPPHR and PCATI held in Tel Aviv in June 1993, which assembled 450 participants, were published in 1995 in *Torture: Human Rights, Medical Ethics and the Case of Israel*, edited by Neve Gordon and Ruchama Marton with the assistance of Jon Jay Neufeld (London, Zed Books and AIPPHR, 1995).

Reports published by Amnesty International which discuss torture include *Israel and the Occupied Territories: Torture and ill-treatment of political detainees* (AI Index: MDE 15/03/94, April 1994) and *Israel and the Occupied Territories: Human rights: A year of shattered hopes* (AI Index: MDE 15/07/95, May 1995). Reports by other human rights organizations include *Torture and ill-treatment: Israel's Interrogation of Palestinians from the Occupied Territories*, Human Rights Watch/Middle East (Human Rights Watch, New York, 1994) and *The Interrogation of Palestinians During the Intifada: Ill-treatment, "Moderate Physical Pressure" or Torture* (B'Tselem, Jerusalem, 1991) and *The Interrogation of Palestinians during the Intifada* (B'Tselem, Jerusalem, 1992)<sup>18</sup>, *Palestinian Victims of Torture Speak Out* (Al-Haq, Ramallah, 1993). *Torture for Security: the Systematic Torture and Ill-treatment of Palestinians in Israel* (al-Haq, Ramallah, 1995) is based on a survey of 708 detainees held between 1987 and 1992 and gives a percentage breakdown of detainees experiencing different forms of torture.

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<sup>18</sup> These reports have been complemented by a number of occasional papers published by B'Tselem on separate cases.