

ISRAEL AND THE OCCUPIED TERRITORIES

@Doctors and interrogation practices: The case of Nader Qumsieh

Nader Raji Qumsieh (ID no. 97729085, Prisoner No. 20706), a Palestinian from Beit Sahur aged 25, was arrested between 3 and 4 May 1993. He sustained an injury to his scrotum while under interrogation, as evident from his medical records. One medical report claims that Nader Qumsieh said he had fallen down stairs, whereas he has repeatedly stated that he was injured as a result of torture. A military commander initiated an internal investigation into these allegations, but its outcome has not been disclosed. Nader Qumsieh was released from interrogation on 19 May but remained held under an administrative detention order until 20 July, when he was set free.

Palestinian political detainees held by the Israeli authorities continue to be subjected to methods of interrogation which constitute torture or ill-treatment. The state agencies mostly involved are the Israel Defence Force (IDF), Israel's armed forces, and the General Security Service (GSS), Israel's main intelligence and interrogation agency in matters of state security. Medical personnel have apparently cooperated with practices of torture or ill-treatment.

1. THE CASE OF NADER QUMSIEH

The information on this case is based on official court and medical records as well as statements that Nader Qumsieh gave to his two lawyers, Mary Rock, practising in Bethlehem, and Tamar Pelleg-Sryck, practising in Tel Aviv on behalf of the Association for Civil Rights in Israel. Both lawyers submitted formal complaints, one in May and one in June, but had received no substantive replies by the end of July. Amnesty International wrote to the Israeli authorities on its concerns in this case on 5 July and is also awaiting a response.

The names and signatures of doctors in the medical records reproduced as appendices to this document have been deleted by Amnesty International, in order to protect the identity of these doctors while investigations are carried out. Their names are known to Amnesty International and to the Israeli authorities.

Arrest and initial detention

Nader Qumsieh was arrested during the night between 3 and 4 May 1993 at his home in Beit Sahur in the West Bank. His room was searched and he was taken, handcuffed and blindfolded, to a military detention centre in Bethlehem. An arrest warrant for him was issued at 8am on 4 May. He remained held in Bethlehem in solitary confinement until 6 May when he was moved to the Dhahiriyyah detention centre for interrogation. The centre is located in the West Bank, south of al-Khalil (Hebron).

Three other people, students at Bethlehem University, were also arrested in Beit Sahur at the same time. Two were held under administrative detention orders, one was released without charges after two weeks.

On 6 May Nader Qumsieh was informed that he had been issued with a four-month administrative detention order from 4 May to 3 September 1993. The order referred to participation in disturbances and taking part in a "nationalistic procession", without giving details. Nader Qumsieh was suspected of being an activist of the Popular Front for the Liberation of Palestine (PFLP).

Medical examination before entering interrogation (appendix 1)

In Dhahiriyyah, before being taken to the interrogation wing, Nader Qumsieh was examined by a doctor from the detention centre. The medical record of this examination, dated 6 May 1993, states that no pathological findings were noted and certifies him fit to be held in isolation cells (in other words, under interrogation). Nader Qumsieh was held with another detainee for the first night, and then in solitary confinement for the duration of his interrogation.

The torture sessions

Nader Qumsieh alleges that he was subjected to several sessions of torture in Dhahiriyyah on 7, 9, 10 and 11 May. In statements to his lawyers, he says that he was forced to kneel for prolonged periods with his hand tied behind his back, and repeatedly hit on his face, stomach and testicles. He also says that he was placed half a dozen times in a pitch-dark, closet-sized cell, for several hours at a time, and had his moustache hair pulled. On one occasion, he says that one interrogator jumped on his chest and stomach while he was lying on the floor. As a result of this treatment, his nose bled and he complained of pain in his knees and scrotum, which became swollen. It appears that he was held and interrogated by the IDF.

This is how Nader Qumsieh describes to one of his lawyers the first session of torture on 7 May (the quotes have been slightly edited for accuracy of language):

"At about 3.00 in the afternoon a soldier came to the cell, handcuffed my hands behind my back and took me to an official ... His name is 'Ofer'. He began to ask me about my story without telling me exactly what he wanted. When I told him I did not have any story, he began to beat me with his hands on my head, then he suddenly started to pull the hair of my moustache and to beat me on my stomach. This round finished at about 5.00.

"The beating on my head and stomach was continuous during the round. During the round 'Ofer' put my hands behind my back and began to jump on my chest and stomach. He also pressed on my neck so that I could not breathe.

"At 5.00 a soldier came and took me from the office and put me in a very small room, 80 cm x 80 cm x 2 metres, called *khazana* [Arabic for closet or cupboard], without any light. It was so dark that I could not see my hands. I stayed in this small room until 9.30 and then I was taken again to the cell No. 85."

After being left alone on 8 May, Nader Qumsieh says that he was taken back for interrogation in the afternoon of 9 May and interrogated by "Amir", "Yomi" and "Eli" in two different offices. He said he was forced to kneel, with his hands cuffed behind his back, and was hit on the testicles and head "with a piece of plastic like a big pen". He also says he was hit in the stomach and again had his moustache hair pulled. In between beatings sessions he was held in the *khazana*.

In the morning of 10 May, after he had been held in the *khazana* for almost two hours, he was taken to an interrogation office:

"In the office were 'Eli' and 'Rami'... I was beaten on my head by 'Eli'. Blood came out of my nose, then he gave me some Kleenex [paper tissues] to clean the blood from my face. I was kneeling, handcuffed behind my back. I was beaten on the face, stomach and testicles."

After over four hours spent in the *khazana*, Nader Qumsieh says he was brought back for further interrogation and beating by "Rami", then placed again in the *khazana* until 9.00 in the evening when he was returned to his cell. He says that while he was sleeping in his cell, someone passed by saying he was a doctor:

"I told him my testicles were swelling and my knees were very painful. The doctor left without doing anything."

In the morning of 11 May, after two more hours in the *khazana*, Nader Qumsieh says he was taken to an interrogation office at 10.00:

"I was handcuffed and kneeling. 'Amir' told me that I was organizing and active, I told him I was not. At this point he told me to stand up. Suddenly he began to kick me on my testicles and stomach. At 11.00 a soldier came and took me to the *khazana*.

"Another soldier came and took me to the doctor. The doctor saw my testicles and I told him they were like this because of the beatings by the interrogators. Then I was taken again to the *khazana*.

"Then a soldier came and took me to a captain, whom I had not met before. He asked me about what had happened with me during the interrogation. At 4.00 I was taken in a jeep to Soroka hospital."

First medical report from Soroka hospital (appendix 2)

The release form from the emergency room of Soroka hospital, dated 11 May 1993, seems unsigned but refers to a medical examination of Nader Qumsieh performed by a doctor whose name appears on the form. In a telegraphic form, it says that Nader Qumsieh was examined "due to a swelling in the scrotum", adding that he "received a blow [*kibel maka*] to the scrotum two days ago." Specific medical findings include "left side of scrotum slightly swollen", and "colour of the scrotum is blue". The diagnosis, written in English, is: "haematoma subcutaneous of scrotum" (bruising of the underlying tissue of the scrotum). It recommends rest for three days, local ice-packs, and a urological examination in three days.

Nader Qumsieh has stated that he told the doctor who examined him that he had been hit on his testicles during interrogation. After the examination he was returned to Dhahiriyyah but was no longer tortured.

First remand hearing: detention prolonged for eight days (appendix 3)

The day after, on 12 May, Nader Qumsieh was taken to a remand hearing in Dhahiriyyah. The prosecution accused him of belonging to the PFLP and asked for 30 additional days of detention and interrogation. Nader Qumsieh denied the accusations. As evident from the

records of the hearing, he also complained to the judge of having been beaten on his testicles during interrogation over the previous two days.

The judge noted Nader Qumsieh's complaint and the medical evidence of injury to his scrotum "as a result of a blow [*maka*] he received". He described the injury as a "tear" [*kerz*]. He also noted that the commander of Dhahiriyyah was investigating the origin of the blow. He then prolonged the detention of Nader Qumsieh for eight days and ruled that the results of the investigation of the commander of Dhahiriyyah be brought to the attention of the judge presiding over the next remand hearing, should there be one.

Prompt access to a lawyer denied

Lawyer Mary Rock found out about the remand hearing of 12 May, by chance, after it was over. That day she was in Dhahiriyyah on behalf of other clients. She knew Nader Qumsieh had been issued with an administrative detention order and did not expect him to be taken to a remand hearing.

On 13 May she found out that there was an order preventing access to Nader Qumsieh by lawyers for three days starting on 12 May. This order was renewed for two further days on 15 May. She eventually was able to meet Nader Qumsieh on 18 May. He told her about the beatings and that after the remand hearing he had been questioned by a prison officer about his complaint. He says he told the officer about the beatings by the interrogators. His lawyer noticed that Nader Qumsieh was carrying a plastic bag containing ice.

Second medical report from Soroka hospital (appendix 4)

A hand-written letter dated 17 May was issued by the same doctor whose name appears on the medical release form of 11 May. The letter is addressed to a military commander and was probably issued at the request of the commander of Dhahiriyyah. In the letter, the doctor refers to the medical examination of Nader Qumsieh on 11 May, saying that the patient arrived at the emergency room "following trauma [*habala*] in the region of the scrotum". He then continues:

"According to the patient's words, he fell down stairs 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 between two to five days before the examination in the emergency room."

The statement attributed to Nader Qumsieh in this letter is in direct contradiction with

his statements to his lawyers and in court on 12 May. Nader Qumsieh has subsequently explicitly denied that he ever told that doctor that he had fallen down stairs. He actually maintains that throughout his stay in Dhahiriyyah he was never taken up or down any stairs.

Second remand hearing: release from interrogation (appendix 5)

A second remand hearing took place in Dhahiriyyah on 19 May. The prosecution asked that Nader Qumsieh's detention be prolonged for 10 additional days. Lawyer Mary Rock, who this time was present, asked the judge to rule on Nader Qumsieh's complaint of torture and argued that he should be released. She also asked for a complete set of his medical and interrogation records.

The judge referred to Nader Qumsieh's complaint that he had been beaten but did not disclose the results of the investigation by the commander of Dhahiriyyah. He reviewed the evidence presented by the prosecution, which included material on a speech that Nader Qumsieh was accused of having delivered. It also included classified evidence. The judge noted that there was clear evidence that Nader Qumsieh was a PFLP activist, but also noted that the prosecution was not ready to reveal the sources of such evidence. He then stated that under those circumstances he could not justify further interrogation and ordered Nader Qumsieh's release from detention for interrogation purposes. However, Nader Qumsieh remained held under the administrative detention order issued on 4 May.

Medical examination upon release from interrogation (appendix 6)

Nader Qumsieh's medical form issued upon his release from the interrogation wing of Dhahiriyyah is dated 19 May. It records a swelling in the left testicle and pain for 10 days, and notes that the left testicle is "enlarged, hard and tense".

Lawyers' complaints

Later in May lawyer Mary Rock submitted a formal complaint to the IDF legal adviser for the West Bank. In it she expresses surprise at the medical report of 17 May claiming that Nader Qumsieh told his examining doctor that he had fallen down stairs. She asks where these stairs are and how could her client have injured himself in that way by falling down them. She requests a proper investigation into this matter and asks again to be informed of the results of the investigation already conducted and to receive Nader Qumsieh's medical records. She had received no response by the end of July.

At the end of June lawyer Tamar Pelleg-Sryck also submitted a formal complaint to the Judge Advocate General (the IDF top legal officer). In it she complains against the five interrogators named by Nader Qumsieh and against the doctors who certified him fit to be held under interrogation and who failed to protect him against physical abuses. She questions in particular why the doctor at Soroka hospital wrote his letter of 17 May. She then calls for a full investigation and for anyone found responsible for abuses to be brought to justice. The Israeli authorities acknowledged receipt of her complaint and informed her in July that an investigation by the Military Police into the circumstances of Nader Qumsieh's injury was under way.

Administrative detention

Nader Qumsieh was moved to the Ketziot detention centre in Israel on 31 May. There he continued to experience pain in his testicles, as recorded in the detention centre's medical records. In a medical note dated 16 June a doctor at the centre prescribed Optalgin [dipyrone], an analgesic.

On 21 June an appeal hearing against Nader Qumsieh's administrative detention order was held at the Ketziot detention centre. The non-classified evidence produced against him referred to two arrests for short periods in 1986 and 1988 and to two previous periods spent in administrative detention (between 27 July and 26 November 1989 and between 26 June and 30 November 1990). It accused him of having participated in early May 1993 or earlier in a "military parade" and disturbances linked to the killing of a youth in Beit Sahur, without specifying the precise nature of such a parade. It also accused him of participating in a "nationalistic event" in Bethlehem University on 27 March which was held to commemorate a victim of the *intifada* (the Palestinian uprising in the Occupied Territories). The victim in question is Anton al-Shumali, who was shot at point-blank range by one of two Border Policemen who stopped him on a road in Beit Sahur on 2 May. Further evidence was classified.

Nader Qumsieh's lawyer at the hearing, Tamar Pelleg-Sryck, argued that the administrative detention order was not valid as Nader Qumsieh was already in custody under a regular arrest warrant when the administrative detention order was issued, and therefore he could not have constituted a threat to security justifying the exceptional measure of administrative detention. The judge rejected this argument, saying there was no evidence that the administrative detention order was issued after the ordinary arrest warrant and that the existence of criminal proceedings does not invalidate administrative detention.

Lawyer Tamar Pelleg-Sryck asked whether Nader Qumsieh was accused of having been involved in violence. She was told by the GSS representative present at the hearing

that the answer to that question was classified and that he would reveal it only to the judge. The judge ruled that it should remain classified. The GSS representative was not aware of the content of the speech that Nader Qumsieh was accused of having delivered and about which he had been interrogated in Dhahiriyyah.

The judge reviewed all the evidence, and found it sufficient to justify the measure of administrative detention. However, he argued that shortening the detention period would not endanger security and indicated that he was taking the detainee's medical situation into account. He ruled that the administrative detention order be reduced by one-and-a-half months.

Nader Qumsieh was eventually released on 20 July 1993. After his release he is still experiencing pain, including in his back. He was advised by a hospital in Beit Sahur that he should undergo a full medical check up at Makassed hospital in East Jerusalem. On 23 July he applied to the Israeli Civil Administration for a permit to go there (since the end of March 1993 all Palestinian residents of the Occupied Territories need a special permit to be allowed into Jerusalem), but his request was rejected.

Amnesty International's concerns in Nader Qumsieh's case

Amnesty International is concerned at the allegations of torture of Nader Qumsieh, particularly in light of the medical evidence of traumatic injury to his scrotum while held under interrogation. It is concerned about the suggestion that he may have sustained such an injury by falling down stairs, as implied by the doctor from Soroka hospital in the letter of 17 May, as it is highly implausible that any such fall could have caused the injury described. The implication of an injury caused by falling down stairs appears also inconsistent with the doctor's earlier medical report of 11 May referring to "a blow" to the scrotum. The veracity of the doctor's account is further open to doubt because he made no reference to such a fall in his report of 11 May, which was written on the same day as the medical examination.

Amnesty International has asked the Israeli authorities for details of the internal military investigation conducted by the commander of Dhahiriyyah and any other investigation that may have taken place in this case. To be consistent with international standards, including those ratified by Israel, any investigation of allegations of torture or ill-treatment must be prompt, independent and impartial. The methods and findings of it must be made public.

Amnesty International calls for a full, independent and impartial investigation into Nader Qumsieh's allegations, and for appropriate measures to be taken against any interrogator, medical personnel or anyone else found responsible for abuses. If such abuses are proven, adequate compensation must be given to the victim. In any case Nader Qumsieh should be allowed to receive all the necessary medical attention.

During his detention, Amnesty International also called for Nader Qumsieh to be released unless he was to be given a fair and prompt trial on a recognizably criminal offence. Amnesty International opposes the administrative detention of political prisoners. It also feared that Nader Qumsieh may have been held solely for his non-violent political activities, and may therefore have been a prisoner of conscience.

2. INTERROGATION PRACTICES AND MEDICAL INVOLVEMENT

Interrogation practices, official guidelines and investigations

Amnesty International continues to be concerned at the use of methods of interrogation by the IDF and the GSS which amount to torture or ill-treatment. They include beatings all over the body, sometimes concentrated on sensitive areas such as the genitals; hooding with dirty sacks; sleep deprivation; solitary confinement, including in closet-sized dark cells; and various forms of "position abuse" (shackling a detainee in painful positions for prolonged periods).

Following the publication in March 1991 by the Israeli human rights organization B'Tselem of a report on torture of Palestinian detainees, a number of official investigations on the IDF and the GSS were initiated. The methods and the results of these investigations have not been made public. Such secrecy in itself makes them incompatible with international standards.

In May 1991, Major General (Reserve) Rafael Vardi was entrusted to investigate allegations of violence by soldiers in military interrogation centres in the Occupied Territories. He issued his report in August 1991, the text of which is classified. However, according to an IDF press release at the time, Major General Vardi

recommended that responsibility for interrogating residents of the Occupied Territories "be transferred from the IDF, which is not meant to interrogate civilians". He also included "recommendations for sharpening existing IDF orders which prohibit the use of any violence and even ... the possibility of using threats" against residents of the Occupied Territories "after they are detained and during the course of their interrogation." The extent to which these recommendations have been carried out is not known to Amnesty international, but the IDF continues to hold and interrogate Palestinian civilians.

Three other official investigations into interrogation practices were announced in May 1991, involving the GSS and the Ministry of Justice. The outcome of these investigations has not been made known, although the authorities said that measures had been taken

against a number of interrogators.

Secret guidelines for interrogation by the GSS, allowing "the exertion of a moderate measure of physical pressure", were first drawn by the Landau Commission of Inquiry in October 1987. The 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". However, it clearly endorsed "slapping a suspect's face, or threatening him": at the very least such methods constitute cruel, inhuman or degrading treatment or punishment, and as such are absolutely forbidden by international law.

The secret guidelines for GSS interrogators have since been reviewed and updated by a special ministerial committee (as recommended by the Landau Commission) in August 1988, September 1990 and April 1993. They are currently the subject of a petition before the High Court of Justice. The court is expected to rule on their legality and whether or not they should be made public. In the meantime, the Israeli authorities have clarified that the guidelines apply only to those suspected of grave offences, not including disturbance of the peace. They have also clarified that methods of interrogation involving food and drink deprivation, prevention from going to the toilet and exposure to excessive heat or cold are not permitted.

In June 1993 a draft law against torture was prepared by nine members of the Knesset (Israel's Parliament) belonging to different parties. The law aims at bringing Israeli legislation closer to the language of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Israel in October 1991. The Israeli Government has now taken this draft law into consideration.

Amnesty International has repeatedly expressed concern at interrogation practices and at the existing GSS secret guidelines for interrogation. It calls on the Israeli Government to demonstrate that all interrogation guidelines are fully consistent with the international, absolute prohibition of both torture and ill-treatment. The Israeli authorities should also ensure prompt, independent and impartial investigations of complaints of torture or ill-treatment. Anyone responsible for violating the absolute prohibition of torture and ill-treatment should be brought to justice and, if found guilty, punished appropriately.

Amnesty International also regretted that, when it ratified the Convention against Torture, the Israeli Government decided not to make a declaration under Article 22 recognizing the competence of the UN Committee against Torture to consider complaints from or on behalf of individuals. Amnesty International urges the Israeli Government to make this declaration.

Role of medical personnel in interrogation: the "medical fitness form"

Israeli physicians and other medical personnel have apparently been involved in certifying detainees' fitness to undergo at least some of the methods of interrogation used by the Israeli authorities; in examining and providing treatment to victims before allowing them to be returned to interrogation; and in covering up abuses by interrogators.

On 16 May 1993 the Israeli newspaper *Davar* made public a "medical fitness form" (appendix 7). This had been received, among other documentation, by human rights lawyer Tamar Pelleg-Sryck. With this form, apparently in use in interrogation centres, doctors certify whether a detainee may withstand methods of interrogation including solitary confinement, shackling, hooding and prolonged standing.

Protests against the use of such a form and, more in general, against the involvement of doctors in torture came from a number of human rights groups, including the Association of Israeli-Palestinian Physicians for Human Rights. In mid-June 1993 in Tel Aviv the Association also organized, together with the Public Committee Against Torture in Israel, a conference on torture during which the issue of the "medical fitness form" was debated.

At the end of June 1993 the Israeli Medical Association (IMA) made public a letter addressed to Prime Minister and Minister of Defence Yitzhak Rabin. In the letter, dated 21 June 1993, the IMA Chair Dr Miriam Zangen states that doctors would be cooperating with torture and therefore breaching their medical ethics if they answered questions 2.b, 2.c and 2.d of the "medical fitness form". She also makes clear the intention by the IMA to "strictly prohibit" physicians completing the form.

Amnesty International wrote to the Israeli authorities on 5 July asking which authority had issued the "medical fitness form", where it was used, and how long it has been in use. It is awaiting a response. According to press reports, Israeli officials have denied that doctors are asked to determine whether detainees are fit for interrogation and said that the "medical fitness form" was a mistake, the form not having been authorized.

Amnesty International considers that any medical personnel who use a "medical fitness form" such as the one which came to light in Israel, or who otherwise cooperate with torture or ill-treatment of prisoners, would at the very least be in breach of the 1982 UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (attached at the end of this document). Particularly relevant is Principle 4:

"It is a contravention of medical ethics for health personnel, particularly physicians:

- a) To apply their knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that

may adversely affect the physical or mental health or condition of such prisoners or detainees and which is not in accordance with the relevant international instruments;

- b) To certify, or to participate in the certification of, the fitness of prisoners or detainees for any form of treatment or punishment that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment or punishment which is not in accordance with the relevant international instruments."

Medical personnel who use the "medical fitness form" or otherwise cooperate with torture or ill-treatment would also be acting contrary to the 1975 Declaration of Tokyo (also attached at the end of this document) which was adopted by the World Medical Association and supported by the IMA, as mentioned in Dr Miriam Zangen's letter of 21 June. Any such cooperation should be ended and appropriate measures should be taken against medical personnel violating such standards.