

EXTERNAL

AI Index: MDE 15/31/95

15 September 1995

Further information on UA 67/95 (MDE 15/06/95, 16 March 1995) - Torture / Fear of torture

ISRAEL AND THE OCCUPIED TERRITORIES Ziyad Qawasmah, aged 19, student

Amnesty International has learned that Ziyad Qawasmah (corrected spelling) is due to be tried before the Military Court in Ramallah on 8 November 1995. He is now being held pending trial in Hebron Prison.

Ziyad Qawasmah was arrested on 13 November 1994, and denied access to a lawyer for about 25 days. He was transferred from the interrogation wing only on 28 March, 12 days after UA 67/95 was issued; he had thus remained under interrogation for 136 days without access to his family. During his interrogation he reported that he was hooded, deprived of sleep for up to six days a week, held in closet-sized cells and shackled in painful positions for prolonged periods (*shabeh*). His testimony describes his treatment, which included several weeks in *shabeh* for six days a week.

Twice he was transferred from Ramallah Prison to the Moscobiyyah Detention Centre in Jerusalem so that his interrogation could continue during weekends. After four weeks continuous interrogation he was left in his cell for five days. *"After that I stayed in shabeh for two continuous weeks on a chair and standing shackled to a pipe and they continuously beat me, kicking me on the chest...I was put in a closet many times during the shabeh"*. The testimony, given to his lawyer in March, said *"last week a policeman came to me, he beat, shook and strangled me and hit my head on the wall until I bled and was taken to the cell"*. He then confessed to holding posts of responsibility within Hamas and stonethrowing. *"I confessed under pressure. The intelligence threatened to explode my house and deport my family"*.

Replies in July from the Israeli authorities to members of the UA network (enclosing the customary "fact sheet") state that an investigation into the allegations of torture was carried out by officials from the Ministry of Justice. The replies state that Ziyad Qawasmah said he had no complaints and that he would not cooperate with the authorities to see if the interrogators had acted according to the law. It concludes: *"[U]pon examining the overall conduct of the investigators and in the absence of Qawasmah's version of events, the findings of the above investigation department do not indicate any basis upon which steps should be taken against Qawasmah's interrogators."*

Secret guidelines for the interrogation of those suspected of "security" offences" appear to authorize the use of treatment, such as *shabeh*, sleep deprivation and shaking, which amounts to torture and ill-treatment. There has been an exceptional dispensation given by the Ministerial Committee on the General Security Service (GSS) since October 1994 to use increased physical pressure. An investigation to see if the interrogators had acted according to the law is of little use as long as Israeli interrogation guidelines define torture as "as moderate measure of physical pressure" and permit its use. Detainees have stated that they see no purpose in cooperating with investigations which will conclude that the torture they suffered does not constitute torture and is within the law. A recent investigation by the same department, the Department for Investigation of Police, of the Ministry of Justice, recently concluded that an interrogator who violently shook a detainee to death in April could not be held criminally responsible.

Ziyad Qawasmah may also have refused to cooperate in the investigation if he is going to enter into a plea bargain, the most common outcome in Military Court cases. In a plea bargain, the detainee will plead guilty and the lawyer enters into negotiations with the military prosecutor regarding the charges and the sentence the prosecutor will recommend to the court. A bargain is struck, and the sentence will be smaller than if the defendant pleads innocent and is found guilty. Lawyers have reported that they have been given informal warnings that raising complaints of torture may result in a longer sentence for their clients.

(See also "Dodging the Issue", in *UA NEWS*, September 1995 (ACT 60/02/95) for more information on official replies to UA appeals on Israel).

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

- stating that the July 1995 "fact sheet" on Ziyad Qawasmah does not satisfactorily address AI's concerns that he was tortured, because under the Military Court system of plea bargains, he cannot challenge the admissibility of his confession without risking a longer prison sentence;
- calling on the Judge of Ramallah Military Court to take into account the fact that the confession made by Ziyad Qawasmah was made after 136 days' under interrogation during which Ziyad Qawasmah suffered torture and ill-treatment. Article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states that: *"Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made"*;
- calling into question the reliability of investigations into torture by the Department for Investigations of Police of the Ministry of Justice, given that torture/ill-treatment is permitted under the secret guidelines for interrogation and that the shaking of detainees has been permitted by interrogators with the special permission of the head of the GSS;
- stating that Article 3 of the Convention against torture to which Israel is a state signatory, says: *"Exceptional circumstances such as a state of war, or a threat of war, internal political instability or any other public emergency may not be invoked as justification of torture or any other cruel, inhuman or degrading treatment or punishment"*.

**APPEALS TO:**

1. Mr Yitzhak Rabin  
Prime Minister and Minister of Defence  
Office of the Prime Minister  
3 Kaplan Street  
Jerusalem 91919, State of Israel  
**Faxes: +972-2-664838 or +972-3-6917915**  
**Salutation: Dear Prime Minister**

2. Mr David Liba'i  
Minister of Justice  
Ministry of Justice  
29 Salah al-Din Street  
Jerusalem 91029, State of Israel  
**Faxes: +972-2-285438**  
**Salutation: Dear Minister**

3. Mr Moshe Shahal  
Minister of Police  
Ministry of Police  
PO Box 18182  
3 Sheikh Jarrah  
Kiryat Hamemshala  
Jerusalem 91181, State of Israel  
**Faxes: +972-2-826769**  
**Salutation: Dear Minister**

4. The Chief Judge,  
The Military Court,  
Ramallah, via Israel  
**Salutation: Dear Chief Judge**

**COPIES TO:**

Judge Michael Ben-Yair  
Attorney-General  
PO Box 1087  
Jerusalem, State of Israel  
**Faxes: +972-2-869-473**

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 9 November 1995.