



המוקד להגנת הפרט
HAMOKED Center for the Defence of the Individual
המוקד - مركز الدفاع عن الفرد

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The Israeli Information Center for Human Rights
in the Occupied Territories

Supplemental Information for the Consideration of Israel

Submitted to the
UN Committee Against Torture

April 2009

B'Tselem and HaMoked are two Israeli human rights organizations with two decades of experience advocating for Palestinian rights.

B'Tselem: the Israeli Information Center for Human Rights in the Occupied Territories has earned international recognition as the leading source of information regarding human rights in the Occupied Territories. Founded in 1989 to monitor, document and advocate to improve the human rights situation in the Occupied Territories, B'Tselem publishes comprehensive reports on a wide variety of human rights issues, organizes public advocacy campaigns, and serves as an important source of information for journalists, researchers and the diplomatic community at the national and international level. B'Tselem has also pioneered the use of video as a tool to foster accountability and bring the human rights message to new audiences.

HaMoked: the Center for the Defence of the Individual was founded in 1988 and provides assistance and legal advocacy to thousands of Palestinians every year. HaMoked locates Palestinians in detention, represents administrative detainees, files claims for family unification, appeals punitive house demolitions and assists Palestinians to obtain the various permits necessary to conduct their daily lives. In addition, HaMoked conducts legal advocacy to change Israeli policy to ensure respect for human rights.



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B'Tselem and HaMoked are aware of various NGO reports submitted in anticipation of the Committee Against Torture's consideration of Israel. This document supplements these reports with quantitative information regarding ill-treatment and torture in interrogation of Palestinians, other forms of violence by Israeli security forces against Palestinians and the accountability for allegations of torture and ill-treatment.

I. The ISA Interrogation Regime: Routine and Special Methods

In 2006, B'Tselem and HaMoked conducted research to estimate the scope of ill-treatment in interrogations by the Israel Security Agency (ISA). Although it is not a representative sample, the research does provide a valid indication of the frequency of the various interrogation methods. The results reveal a clear pattern of routine ill-treatment of Palestinians in ISA interrogations. In addition, the research documented several cases where Palestinians were subjected to interrogation methods that constitute torture.

Routine Ill-treatment

The research sample consisted of virtually all Palestinians detained during the five-day period between 13 and 17 July 2005 and transferred to one of the ISA interrogation facilities. Altogether, the sample consisted of thirty-four detainees. Affidavits from this sample indicate that the ISA interrogation system includes seven key methods which harm, to varying degrees, the dignity and bodily integrity of the detainees. This injury is intensified considering the combined exercise of these methods during the interrogation period, which, for the witnesses in the sample, lasted an average of 35 days.

These measures are not inevitable side-effects of the necessities of detention and interrogation, but are rather intended to break the spirit of the interrogees. As such, they constitute, under international law, prohibited ill-treatment. Moreover, under certain circumstances, these measures may amount to torture. The methods used are as follows:

1. *Isolation from the outside world* - prohibition on meetings between detainees and their attorneys or ICRC representatives;
-22 cases = 65%
2. *Use of the conditions of imprisonment as a means of psychological pressure* - holding in solitary confinement and in putrid, stifling cells;
-27 cases = 79%
3. *Use of conditions of imprisonment as a means for weakening the body* - preventing physical activity, disturbing sleep, providing an inadequate food supply;
-17 cases = 50%
4. *Shackling in the "shabah" position* - painful binding of the detainee's hands and feet to a chair;
-31 cases = 91%
5. *Cursing and humiliation* - cursing, strip searches, shouting, spitting etc.;
- 20 cases = 59%



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6. *Threats and intimidation* - including the threat of physical torture, arrest of family members, etc. ;
-15 cases = 44%
7. *Use of informants, "asafir"*, to extract information - this method is not in itself harmful or prohibited, as such. However, its efficacy largely depends on the ill-treatment of detainees immediately preceding its implementation;
- 29 cases = 85%

Special Interrogation Methods

In addition to the routine methods outlined above, in isolated cases, presumably those defined as "ticking bomb" cases, ISA interrogators also use "special" methods which involve direct physical violence, and which constitute torture under international law.

In order to document methods used against Palestinian detainees in these so-called "ticking bomb" cases, HaMoked and B'Tselem took affidavits from Palestinians targeted for arrest operations during the period July 2005-January 2006 who were subject to interrogation within 48 hours of their arrest. Altogether thirty-nine testimonies were taken from Palestinians who meet these criteria. While this group in no way constitutes a representative sample, it does indicate that the use of physical force in interrogations is not negligible, even if not routine:

1. *Sleep deprivation* for over 24 hours ;
- 10 cases
2. *"Dry" beatings* (slaps, punches, and kicks);
- 12 cases
3. *Painful tightening of handcuffs*, sometimes resulting in cutting off blood flow;
- 5 cases
4. *Sudden pulling of the body* while causing pain in the hand joints which are cuffed to the chair;
- 4 cases
5. *Sharp twisting of the head* sideways or backwards;
- 4 cases
6. *The "frog" crouch* (forcing the detainees to crouch on tiptoes) accompanied by shoving;
- 3 cases
7. *The "banana" position* - bending the back of the interrogee in an arch while he is seated on a backless chair.
- 5 cases

II. Impunity for torture and ill-treatment

There is a complete lack of accountability for torture and ill-treatment of Palestinians by ISA agents. From 2001 through 2008, the State Attorney's Office received over 600 complaints regarding ill-treatment by ISA interrogators. It has not found cause to order the instigation of a single



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criminal investigation.¹ A general atmosphere of impunity persists in Israel.

The State Attorney's Office bases its decision on the findings made by the Inspector of Complaints by ISA interrogees (the Complaints Inspector), who is himself an ISA agent and subordinate to the head of the ISA. With the Complaints Inspector **lacking independence and objectivity**, it is not surprising that, in most cases, the inspector determines that the complaint is unfounded. In a very limited number of cases, the Complaints Inspector determined that ISA agents indeed abused an interrogee. However, in these cases, the State Attorney's Office decided to close the file without ordering a criminal investigation on the tendentious grounds established by the 1999 High Court ruling that "ticking bomb" cases exempt the ISA interrogator from criminal responsibility. However, even the High Court ruled that the ill-treatment must be a spontaneous response by an individual interrogator to an unexpected occurrence. In practice, all evidence points to the fact that both the routine abuse and the "special" methods are preauthorized and are used according to preset regulations.

III. Security Force Violence outside the interrogation context

Violence against Palestinians in their daily encounters with Israeli security forces remains an on-going problem. Most cases involve a "small dose" of ill-treatment such as a slap, a kick, an insult, a pointless delay at checkpoints, or degrading treatment. These acts have become an integral part of Palestinian life in the Occupied Territories. From time to time, however, cases of severe brutality occur.

Such abuse is common during the course of arrest operations. In B'Tselem and HaMoked's 2005 sample of Palestinians in interrogation, 40% of the detainees were beaten on the way to the detention center. Another particularly vulnerable group are Palestinians who work inside Israel without the necessary permits.

Israeli law, like international law, allows security forces to use reasonable force in self-defense and for duty-related purposes such as dispersing rioters, arresting suspects resisting arrest, and preventing a detainee from fleeing. The law does not, however, allow beatings, degradation, or ill-treatment of persons who are not rioting, resisting arrest, or fleeing. Also, the requirement that reasonable force be used in those instances where force is allowed demands that the measures taken be limited in severity to that which is necessary to prevent commission of the offense.

The acts described in testimonies given to B'Tselem and to other human rights organizations deviate greatly from what the law allows, and they constitute flagrant violations of human rights.

When they are publicized, cases of beatings and abuse receive special condemnation. However, these condemnations remain solely declarative. Both the army and the Border Police have yet to make it

¹ Letter to B'Tselem from Attorney Boaz Oren, head of the International Agreements Unit, Ministry of Justice, 26 June 2006 and Letter to B'Tselem from Michal Tene, Head of the Public Inquiries Unit and Freedom of Information Act, 20 December 2008.



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unequivocally clear to security forces serving in the Occupied Territories that it is absolutely forbidden to abuse and beat Palestinians, and their educational and information actions in this regard have been more lip service than a frank and honest attempt to uproot the phenomenon once and for all.

Two bodies are responsible for investigating allegations of violence by security force personnel against Palestinians in the Occupied Territories: the Department for the Investigation of Police (DIP) in the Ministry of Justice investigates complaints regarding police and Border Police, and the IDF Judge Advocate General's Office investigates complaints regarding soldiers. B'Tselem forwards to the DIP testimonies it receives regarding police brutality against Palestinians and requests that the matters be investigated and that the offending police officers be prosecuted. In many cases, the DIP responds that the file is closed for reasons such as "offender unknown" or "insufficient proof." At times, the DIP decides to close a file following an incomplete investigation or when the complainant was unable to reach DIP offices to give testimony because the complainant's request to enter Israel was rejected. And in those cases in which police officers are prosecuted, they receive light sentences.

Since September 2000, B'Tselem has submitted 345 complaints for violence—beating, using rifle butts, clubs and other means of injury—against Palestinian detainees by police, border police, and soldiers. This violence does not take place in a void, but rather under the auspices of the Israeli law enforcement system. Unlike the complete lack of investigation into ISA ill-treatment and torture, criminal investigations are opened in the majority of these cases. However, perpetrators are rarely held accountable. **Of the 345 total complaints, only 14 cases have resulted in an indictment—just 4%.**