

Hard Evidence on Torture and Ill-Treatment Against Palestinian Detainees at Israeli Interrogation Centers

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Since its creation, the occupying state developed and enforced laws and practices that led to both the systematic use of torture and to absolute impunity for the perpetrator of this crime. There has never been any individual or agency held accountable for the well-documented crimes of torture and ill-treatment at Israeli prisons and interrogation centers. The occupation authorities, in particular, the Israeli intelligence agency "Shabak" resorts to torture and ill-treatment as standard operating procedure in a systematic and wide-scale approach against Palestinian detainees. Over the past three months, the intelligence agency subjected a number of detainees at Israeli interrogation centers to severe physical and psychological torture without any form of monitoring and protection.

Addameer has hard evidence on the crimes of torture and ill-treatment committed against a number of detainees held at interrogation centers since late August 2019. Addameer was banned from publishing any of the details of torture prior to this date, due to a gag order issued by the Israeli Court of First Instance in Jerusalem.

On 10 September 2019, a gag order was issued on a number of cases under interrogation at al-Mascobiyya interrogation center. Hence, preventing the public, including Addameer the legal representative, from publishing any information regarding these cases. The gag order was issued based on a request from the Israeli intelligence agency and Israeli police and was renewed multiple times. Despite the gag order, Israeli media outlets and the Israeli intelligence agency published information to the public about some of those cases. This inconsistent enforcement of the gag order, where the Israeli sources exercised the freedom to publish, can only be understood as a means to influence public opinion. Most importantly, the issuance of this gag order is an attempt to hide crimes committed against the detainees and prevent the public and the legal representatives from exposing the details of the crimes of torture and ill-treatment that were committed against the detainees in question throughout the past months.

Torture at Israeli interrogation centers

According to Israeli military laws, a detainee can be held in interrogation for a total period of 75 days without receiving any official charges. According to these same laws, a detainee can be banned from meeting his/her lawyer for a total period of 60 days. Those detainees, in particular, were held for extremely long periods of interrogation, and were also banned from lawyers' visits and legal consultation. The periods of the ban on meeting the lawyers ranged

from 30 to 45 days in some cases. During the interrogations, the detainees suffered from different forms of both physical and psychological torture. The methods used against them included, but were not limited to harsh beating, sleep deprivation, solitary confinement, stress positions, the denial of basic hygiene needs, sexual harassment, threatening and intensive psychological torture including the use of family members and/or other detainees. The used threats included threats of rape, torture, and revocation of residency. The severe torture and humiliation these detainees suffered from, led to injuries, broken bones, fainting, vomiting, bleedings from different parts of the body (nose, mouth, hands, legs[1] and genital area). In addition, the detainees also suffered from the false assessment made by doctors at the interrogation centers, whom almost in all cases stated that the detainees are qualified for interrogations denying the clear signs of torture.

A short description of some of the torture techniques:

- **Positional torture (stress positions):** Israeli intelligence officers forced the detainees into a number of stress positions such as the banana position,[2] the frog position, sitting on an imaginary chair, squatting and many other different positions. Almost in all of these stress positions, the detainees would lose their balance and fall on the ground, which would lead to a harsh beating by the officers and then forcing the detainee back into the stress position. Other used stress positions included standing on their toes while their hands were shackled above their heads to a wall. Another position included sitting on a chair while handcuffed to the back, where the hands were positioned on a table behind the detainee's chair. A third position involved the detainee laying on the ground with his/her hands chained to each other with iron cuffs and positioned behind his/her back. This position also includes officers sitting on the detainee to place pressure on his/her body while beat him/her ferociously.
- **Harsh beatings:** Israeli occupation intelligence officers used extreme methods of beatings against the detainees using their hands, legs, knees and even their fingers. The officers hit, slapped, punched, poked (using their fingers), and kicked the detainees. These methods resulted in severe and life-threatening injuries that included broken ribs, inability to walk, brutal bruises, swelling marks on the skin, ulcer wounds...etc. The officers, who exceeded five in number in some cases used to blindfold the detainees' eyes so they would not expect the beating or know where it is coming from. Several of those detainees appeared in their court sessions with marks on their bodies, expressing severe pain, or in some cases arrived on wheelchairs. In one of the cases, the harsh beating was committed with the intention to kill the detainee, who was in fact transferred to the hospital in serious condition after around 30 hours of severe and extreme methods of beatings. In another case, the harsh beating aimed at injuries caused by a police dog during the arrest, the interrogators intended to target those previously obtained injuries, which were mainly on the detainee's genital area causing the wounds to re-open twice. Also, in many other cases, the method of pulling the facial hair from its roots causing injuries and swelling marks was used.
- **Sleep deprivation:** this technique was implemented through different methods, in some cases the detainees spent around twenty days sleeping from one to three hours a day. Even when those detainees were sent to their cells to sleep, they would be disturbed with loud and eerie sounds made by the prison guards, the voices of other detainees being harshly beaten or the sound of knocking on

their cell doors. In some cases, sleep deprivation ranged from 30 to 60 continuous hours, where the detainee would not be sent to sleep at all during these hours and would be woken up if he/she falls asleep during the interrogation. Some detainees were harshly slapped on their faces to wake up, others were also splashed with water. Detainees described the slaps as extremely severe causing them to feel dizzy.

- **The use of family members (emotional blackmailing):** psychological torture and ill-treatment were used on the majority of these detainees, focusing on threats against their family members, and loved ones. Israeli occupation forces used the policy of collective punishment through arresting and bringing in some of the family members mostly to al-Mascobiyya interrogations center and Ofer prison. Eight family members for seven different detainees were arrested, and another ten family members were brought in for questioning. Some of these relatives were kept for a number of days while others were kept for hours. In all the cases, family members and loved ones were mainly brought in to pressure the detainees themselves. The interrogators made the detainees assume that their relatives got arrested and will be tortured as well. Relatives included fathers, mothers, brothers, daughters, wives, etc.
- **Interrogation at Israeli secret prisons:** at least one of the detainees Addameer has documented their cases have stated that they were taken to unknown centers. The detainee said that the interrogators at this center were all face-covered and wearing a different uniform than the known usual uniforms. It has been revealed in the past that Israel has secret prisons that are removed from maps and airbrushed aerial photographs.[3]

These detainees that were subject to torture and ill-treatment in the past months were around 50 detainees, almost half of them were subject to torture, and all of them suffered ill-treatment. The detainees included male and female detainees, they also included university students, union workers, human rights defenders, and a PLC member. Addameer's lawyer began collecting hard evidence proving the torture and ill-treatment committed against these detainees from the very first day the lawyers were permitted to meet them.

Public International Law

Violations of Fair Trial Guarantees

Israeli military courts completely disregard the fair trial guarantees. The cases monitored in the last months are just another proof of the fact that the Israeli military court from its creation never met the minimum standards of a fair trial. The right to a fair trial is enshrined in all the Geneva Conventions and their Additional Protocols. [4] According to the Third and Fourth Geneva Conventions, depriving a protected person a fair and regular trial is a grave breach.[5] Additionally, the right to a fair trial is set forth in the International Covenant on Civil and Political Rights (ICCPR) and in several other international instruments.[6] For example, the UN Human Rights Committee in its General Comment on Article 4 of the ICCPR stated that the principle of the fair trial cannot be derogated from.[7]

The fair trial guarantees basic principles that are systematically violated at the Israeli military courts include, but are not limited to the following; trial by an independent, impartial and regularly constituted court; presumption of innocence; information on the

nature and cause of the accusation (right to be informed); necessary rights and means of defense (right to counsel); the presence of the accused at the trial; and compelling accused persons to testify against themselves or to confess guilt.[8]

As mentioned before, there was a gag order effective for a period of over three months, due to this gag order the court proceedings were not open to the public, and even preventing the family members from attending the court sessions. Thus, violating the right **to public proceedings**.[9] Also, the majority of the detainees who were included in the gag order were also banned from lawyers' visits and consultation. Even in the court sessions that were conducted while the lawyers' ban was effective, detainees were denied to see his/her lawyer. The period of the lawyers' ban orders ranged from 30 days to around 45 days in some of the cases, depriving them of their **right to counsel**[10] in the most sensitive period of detention.

Moreover, according to the Israeli military law, a detainee can be held without any charges for a total period of 75 days that is subject to renewals. In those cases, in particular, the military prosecution pressed lists of charges after a period of interrogations that ranged from 50 to 60 days in some of the cases. One of the detainees spent more than 100 days at al-Mascobiyya interrogation center without knowing all of the charges brought against him. Thus, violating detainee's **right to be informed**[11] of the nature of the accusations brought against them without delay. In other cases, the intelligence agency published accusations against individuals to the public before presenting them with their list of charges at the court. The published statements were for a mere political motive as the actual charges pressed against the same detainees at the military court are not in line with the published accusation.

Furthermore, according to the court sessions' protocols, detainees have shown and expressed their need for urgent medical care by emphasizing that they were tortured. Some of the detainees attended their sessions in a wheelchair and one was not able to attend a number of his sessions due to his medical situation. Still, the judge at the military court in all of the cases extended the detention periods for the detainees for the purposes of interrogations. In fact, in the past three months, Addameer's lawyers made several appeals to the Israeli military courts of appeals on the detention periods and many petitions to the Israeli High Court on the orders that ban the detainees from meeting their lawyers. All the petitions submitted to the Israeli High Court were rejected and around 95 percent of the appeals made to the Israeli military court of appeals were also rejected. This shows how the military court and High Court are not **independent, impartial and regularly constituted courts**[12] as they prioritize the requests and needs of the Israeli intelligence agency without any consideration of the detainees' rights. Most importantly, the insistence of the Israeli judges at both courts to extend the interrogation periods with the knowledge of the committed torture shows the complicity of this legal system in the committed crimes. In fact, the judges also obstructed the documentation of torture by attempting to delay the obtaining of medical reports and pictures of the bodies of those tortured detainees, rather than monitoring and preventing torture, which is their legal obligation. Only in one of the cases, the judge ordered the detention center's doctor to document the body of the detainee by taking pictures.

Finally, almost all of those detainees were forced to give confessions under torture. The intensity of the interrogations and severity of the physical and psychological torture forced the majority of the detainees to **testify against themselves, against others, and confess guilty**.[13] At the Israeli military court, those confessions are used as the main

tool to indict those detainees, in complete disregard of all international norms that assert on the inadmissibility of all confessions obtained under torture.

Prohibition of Torture in Public International Law

Prohibition against torture is one of the most fundamental norms of international law that cannot be derogated from. The protection against torture under all circumstances is enshrined in both Treaty[14] and Customary International Law.[15] Despite the absolute and non-derogable prohibition against torture, enshrined under article (2) of the International Convention against Torture and ratified by Israel on 3 October 1991, torture against Palestinian detainees is systematic and widespread in Israeli occupation prisons and interrogation centers. In fact, torture has been sanctioned by a series of Israeli High Court decisions. In High Court decision number 5100/94 in 1999,[16] the High Court made permissible the use of “special means of pressure” in the case of a “ticking bomb” scenario, where interrogators believe that a suspect is withholding information that could prevent an impending threat to civilian lives as stated in Article (1)34 of the Israeli Penal Code of 1972. This exception constitutes a grave legal loophole that legitimizes the torture and cruel treatment by the Israeli intelligence interrogators against Palestinian detainees and also protects interrogators who are granted impunity for their crimes.

Moreover, the Israeli High Court, in the Tbeish case number 9018/17 in 2018,[17] issued a ruling which expanded the concept of a “ticking bomb” scenario to include cases that are not imminent security threats. In this case, the judge based his ruling on previous decisions and broadened the element of immediacy not to be limited with a time frame. The Israeli occupying state alleges that the “special measures” they use with Palestinian detainees are part of their security measures. However, those practices amount to torture and ill-treatment, and even if the Israeli allegations were accurate, torture is absolutely prohibited in all circumstances including those of security-related measures. Furthermore, torture is committed in Israeli interrogation centers regardless of the classification of a “ticking bomb situation/special measures” torture is used with cases that even include the right to affiliation and organize politically.[18]

International legal standards affirm the absolute prohibition of torture under all circumstances. For example, the Council of Europe outlined guidelines on human rights and fighting terrorism which was adopted by the Committee of Ministers on 11 July 2002. The guidelines stated: “The use of torture or of inhuman or degrading treatment or punishment is absolutely prohibited, in all circumstances, and in particular during the arrest, questioning and detention of a person suspected of or convicted of terrorist activities, irrespective of the nature of the acts that the person is suspected of or for which he/she was convicted.”[19]

The United Nations Special Rapporteur on Torture, Nils Melzer, stated: “The ban on torture and ill-treatment was one of the most fundamental norms of international law and could not be justified in any circumstances.”[20] He added in the same statement speaking about the American prison at Guantanamo Bay that, “By failing to prosecute the crime of torture in CIA custody, the U.S. is in clear violation of the Convention against Torture and is sending a dangerous message of complacency and impunity of officials in the U.S. and around the world.”[21] The Israeli occupying state is an outrageous example of complicity and absolute impunity for perpetrators of the crimes of torture and ill-treatment.

Conclusion: Impunity for a war crime

This Israeli illegal occupation has violated all the legal elements of an occupation under international law. The Israeli legal system and practices are just one example of this violation that aims for suppressing and dominating the Palestinian protected population. Crimes of torture and denial of a fair trial for Palestinian detainees are not limited to one perpetrator. In fact, the agencies complicit in those crimes include the intelligence agency, military court, military prosecution, High Court, and even the medical staff that were involved in providing medical care and assessment for those detainees subjected to torture and ill-treatment.

According to various human rights organizations fighting against the crimes of the occupation, there are no effective domestic mechanisms of accountability for the crimes of torture, ill-treatment and the deprivation of a fair trial. In point of fact, Addameer, in the last ten years, has annually submitted tens of complaints of torture, and only one of them, a sexual harassment case, was open for investigation. However, rather than pressing a list of charges against the perpetrators, in this case, it was closed without indictment. Furthermore, according to the Public Committee Against Torture in Israel (PCATI), about 1,200 complaints of torture during Israeli interrogations have been filed since 2001. All the cases were closed without a single indictment.[22]

Finally, Addameer affirms that the Israeli occupying state with all of its agencies continues to commit war crimes and crimes against humanity. According to the Rome Statute, the denial of a fair and regular trial is a war crime (Article 8 (2)(a) (vi)). Additionally, torture is a war crime (Article 8 (2)(a) (ii)) and if committed in a systematic and wide-scale approach it also amounts to a crime against humanity (Article 7 (1)(f)).[23]

Addameer calls on the international community to hold Israel accountable for its war crime and crimes against humanity and to put an end to its sanctioned absolute impunity.

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Notes

[1] The hands and legs of those detainees suffered great injuries mainly due to the cuffs used to chain them for long hours.

[2] The banana position is a position in which the detainee's legs cuffed to the lower part of a chair (the back of the chair is positioned to the side) and his hands cuffed to each other and pressured by the interrogators to the lower part of the chair. This position would mean that the detainee's body would form an arch. Usually, when the detainee is forced into this position, the interrogators beat the detainee harshly on the chest and stomach. Interrogators put a blanket or a pillow on the floor behind the chair, since detainees usually fall with the chair to the floor, due to the intensity the body is exposed.

[3] For further information check the written article on <https://www.theguardian.com/world/2003/nov/14/israel2>

[4] First Geneva Convention, Article 49; Second Geneva Convention, Article 50; Third Geneva

Convention, Articles 102–108; Fourth Geneva Convention, Articles 5 and 66–75; Additional Protocol I, Article 75(4); Additional Protocol II, Article 6(2). The principle of the right to fair trial is also provided for in Article 17(2) of the Second Protocol to the Hague Convention for the Protection of Cultural Property.

[5] Third Geneva Convention, Article 130; Fourth Geneva Convention, Article 147; Additional Protocol I, Article 85(4)(e).

[6] International Covenant on Civil and Political Rights, Article 14(1) (*ibid.*, § 2796); Convention on the Rights of the Child, Article 40(2)(b)(iii) (*ibid.*, § 2802); European Convention on Human Rights, Article 6(1) (*ibid.*, § 2795); American Convention on Human Rights, Article 8(1) (*ibid.*, § 2797); African Charter on Human and Peoples' Rights, Article 7 (*ibid.*, § 2801).

[7] UN Human Rights Committee, General Comment No. 29 (Article 4 of the International Covenant on Civil and Political Rights) (*ibid.*, § 2998).

[8] For further information check rule 100 of the customary international law at:

https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule100

[9] Third Geneva Convention, Article 105; Fourth Geneva Convention, Article 74; Additional Protocol I, Article 75(4)(i); ICC Statute, Article 64(7); ICTY Statute, Article 20(4); ICTR Statute, Article 19(4); International Covenant on Civil and Political Rights, Article 14(1).

[10] First Geneva Convention, Article 49; Second Geneva Convention, Article 50; Third Geneva Convention, Article 84, and Article 96; Fourth Geneva Convention, Article 72, and Article 123; Additional Protocol I, Article 75(4)(a); Additional Protocol II, Article 6(2)(a). Also, International Covenant on Civil and Political Rights, Article 14(3).

[11] Third Geneva Convention, Article 96, and Article 105; Fourth Geneva Convention, Article 71, and Article 123; Additional Protocol I, Article 75(4)(a); Additional Protocol II, Article 6(2)(a). Also, International Covenant on Civil and Political Rights, Article 14(3)(a); Convention on the Rights of the Child, Article 40(2)(b)(ii).

[12] Third Geneva Convention, Article 84; Additional Protocol II, Article 6(2); Additional Protocol I, Article 75(4); International Covenant on Civil and Political Rights, Article 14(1); European Convention on Human Rights, Article 6(1).

[13] Third Geneva Convention, Article 99; Additional Protocol I, Article 75(4)(f); Additional Protocol II, Article 6(2)(f); ICC Statute, Article 55(1)(a); International Covenant on Civil and Political Rights, Article 14(3)(g); Convention against Torture, Article 15.

[14] First Geneva Convention, Article 12; Second Geneva Convention, Article 12; Third Geneva Convention, Article 17; fourth paragraph (“physical or mental torture”) Article 87, Article 89 (“inhuman, brutal or dangerous” disciplinary punishment), and Article 32; Additional Protocol I, Article 75(2); Additional Protocol II, Article 4(2); ICC Statute, Article 8(2)(c)(i) and (ii); International Covenant on Civil and Political Rights, Article 7; European Convention on Human Rights, Article 3.

[15] For further details check Rule 90 at:

https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter32_rule90

[16] HCJ 5100/94, *Public Committee Against Torture in Israel et al. v. Government of Israel et al.*, Judgment. An English translation of the Court decision is available at:

http://www.hamoked.org/files/2012/264_eng.pdf [accessed 5 December 2019].

[17] HCJ 9018/17, *Firas Tbeish et al. v. The Attorney General*. An English translation of the Court decision is available at:

http://stoptorture.org.il/wp-content/uploads/2017/02/F.-Tbeish-Ruling-Nov.-2018.ENG_.pdf [accessed 22 December 2019].

[18] Joint report: B'Tselem and HAMOKED (2010): Impunity: Israeli military policy not to investigate the killing of Palestinians by soldiers https://www.btselem.org/download/201010_kept_in_the_dark_eng.pdf

[19] Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers on 11 July 2002 at the 804th meeting of the Ministers' Deputies

[20] Miles, Tom. "U.N. Expert Says Torture Persists at Guantanamo Bay; U.S. Denies." *Reuters*, Thomson Reuters, 13 Dec. 2017, www.reuters.com/article/us-usa-guantanamo-torture/u-n-expert-says-tortur...

[21] Ibid.

[22] Public Committee Against Torture in Israel, *Torture in Israel 2019: Situation Report*, it can be found here: *Situation Report 2019*.

[23] For further information check the Rome Statute of International Criminal Court at:

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalCriminalCourt.aspx>

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