

Torture As Official Israeli Policy

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The UN Convention against Torture defines the practice as:

“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain and suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity....”

The US and Israel are the only two modern states that legally sanction torture. An earlier article covered America. This one deals with the Jewish state, but let there be no doubt:

Although its language in part is vague, contradictory and protects abusive practices, Section 277 of Israel’s 1977 Penal Law prohibits torture by providing criminal sanctions against its use. It specifically states in language similar to the UN Convention against Torture:

“A public servant who does one of the following is liable to imprisonment for three years: (1) uses or directs the use of force or violence against a person for the purpose of extorting from him or from anyone in whom he is interested a confession of an offense or information relating to an offense; (2) threatens any person, or directs any person to be threatened, with injury to his person or property or to the person or property of anyone in whom he is interested for the purpose of extorting from him a confession of an offense or any information relating to an offense.” However, Israel clearly discriminates against Palestinians, (including Israeli Arab citizens), denies them rights afforded only to Jews, and gets legal cover for it by its courts. More on that below.

Nonetheless, the Jewish state is a signatory to the 1984 UN Convention against Torture and other international laws banning the practice. It’s thus accountable for any violations under them to all its citizens and persons it controls in the Occupied Territories.

US statutes leave no ambiguity on torture. Neither do international laws like The (1949) Third Geneva Convention’s Article 13 (on the Treatment of Prisoners of War). It states:

They “must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited....(these persons) must at all times be protected, particularly against acts of violence or intimidation....”

Third Geneva’s Article 17 states:

“No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war” for any reasons whatsoever.

Third Geneva’s Article 87 states:

“Collective punishment for individual acts, corporal punishments, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

The (1949) Fourth Geneva Convention’s Article 27 (on the treatment of Civilian Persons in Time of War) states:

Protected persons “shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof....”

Fourth Geneva’s Articles 31 and 32 state:

“No physical or moral coercion shall be exercised against protected persons.”

“This prohibition applies to....torture (and) to any other measures of brutality whether applied by civilian or military agents.”

Fourth Geneva’s Article 147 calls “willful killing, torture or inhuman treatment....grave breaches” under the Convention and are considered “war crimes.”

All four Geneva Conventions have a Common Article Three requiring all non-combatants, including “members of armed forces who laid down their arms,” to be treated humanely at all times.

The (1966) International Covenant on Civil and Political Rights Article 7 states:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Its Article 10 states:

“ All persons deprived of their liberty shall be treated with humanity....”

The (1984) UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is explicit in all its provisions. It prohibits torture and degrading treatment of all kinds against anyone for any purpose without exception.

Various other international laws affirm the same thing, including the UN Charter with respect to human rights, 1945 Nuremberg Charter on crimes of war and against humanity, the (1948) Universal Declaration of Human Rights, the (1988) UN Body of Principles for the Protection of All Persons under Any form of Detention or Imprisonment, the UN (1955) Standard Minimum Rules for the Treatment of Prisoners, and (1990) UN Convention on the Rights of the Child. So does Article 5 of the International Criminal Court’s (ICC) Rome Statute with regard to crimes of war and against humanity. Torture is such a crime – the gravest of all after genocide.

Israeli Torture Violates International Law

From inception to today, and especially since its 1967 occupation, Israel’s military and

security forces have willfully, systematically and illegally practiced torture – as official state policy against Palestinian detainees called “terrorists.” Yet Israel always denies it, and its 1977 Penal Law prohibits it.

In 1987, the Landau Judicial Commission addressed the practice after two among many revelations became public:

– defense minister Moshe Dayan’s 1979 statement to Israel’s Maaref daily regarding Arab prison detainees: “We will make of these detainees parasites in their societies, and we will not release them until they become like mummies, empty and full of holes from inside like Swiss cheese;” and

– the 1980s torture scandals tarnishing Shin Bet’s reputation as a respected internal security agency.

The Landau Commission condemned the practice but approved the Penal Law’s “necessary defense” provision (in violation of international law) and sanctioned “psychological and moderate physical pressure” to obtain evidence for convictions in criminal proceedings. It said coercive interrogation tactics were necessary against “hostile (threats or acts of) terrorist activity” and all expressions of Palestinian nationalism.

Israel’s High Court of Justice (HCJ) legitimized coercive interrogations in three 1996 cases – by plaintiffs Bilbeisi, Hamdan and Mubarak for interim injunctions against abusive General Security Service (GSS – now the Israeli Security Agency or ISA) practices. Ones cited included violent shaking, painful shackling, hooding, playing deafeningly loud music, sleep deprivation, and lengthy detainments. After due consideration, the HCJ ruled painful shackling illegal, but not the other practices.

Israel claims it never uses torture and complies with international laws and norms. International law experts, the UN Committee Against Torture, and sources like B’Tselem, United Against Torture (UAT), and the Public Committee against Torture in Israel (PCATI) disagree.

So does Dr. Afi Rabs in testimony to Israel’s High Court on 14 Palestinian prisoners. They were all detained for trivial offenses like stone-throwing and tire-burning and weren’t “ticking bombs.” Yet they all were tortured as one detainee explained:

“I was shackled in iron cuffs that entered my flesh, and a bag was put on my head as a certain music roared in my ears and almost deafened me. They used to beat me up and kick me, and my body was full of wounds and bruises. After that I was sent to a doctor who asked me if I was tortured, and I said yes, but he didn’t reply or say something. Then I was taken back and tortured again.”

PCATI petitioned the HCJ, and it responded with a landmark September 1999 ruling. It reversed the Landau Commission’s recommendations, barred the use of torture against detainees, but left a giant loophole. It ruled that pressure and a measure of discomfort are legitimate interrogation side-effects provided they’re not used to break a detainee’s spirit. But it sanctioned physical force in “ticking time bomb” cases in direct violation of international laws allowing no exceptions under any circumstances. Moreover, Israeli security forces routinely claim detainees are security threats enough to justify its interrogation practices.

In November 2001, the UN Office of the High Commissioner for Human Rights disagreed. It issued “Conclusions and Recommendations of the Committee against Torture” and addressed the 1999 HCJ ruling in the case of the Public Committee against Torture in Israel v. the State of Israel. It held that: “the use of certain interrogation methods by the Israel Security Agency (ISA) involving the use of ‘moderate physical pressure’ was illegal as it violated constitutional protection of the individual’s right of dignity....While recognizing the right of Israel to protect its citizens from violence, it reiterates that no exceptional circumstances may be invoked as justification of torture” or abusive interrogation practices.

Since its 1967 occupation, the Palestinian peace and justice group MIFTA estimates that over 650,000 Palestinians have been imprisoned – or the equivalent of about one-sixth of today’s Occupied Palestinian population. Currently, Israeli security forces hold around 10 – 12,000 Palestinian men, women and children detainees under deplorable conditions and many administratively without charge. According to human rights organizations like B’Tselem, Hamoked, UAT and PCATI, up to 85% are subjected to torture and abusive treatment.

PCATI’s June 2008 Torture Report

PCATI is a 1990-founded “independent human rights organization” that monitors and decries “the use of torture in (Israeli) interrogations (and works for its) complete prohibition.” It also provides legal counsel, aids victims, and helps lawyers representing them.

Its June 2008 report is titled “No Defense: Soldier Violence against Palestinian Detainees.” It begins with a question asked Brig. General Yossi Bachar (former commander of Israel’s Paratrooper Brigade) at the trial of one of his soldiers accused of abusing a Palestinian detainee: “How common is the phenomenon of beating shackled Palestinian prisoners?”

His answer: “ Unfortunately I want to admit something that we are not fully aware of. These cases are not all that exceptional in their quantity....to my great regret. Many of them are not the subject of any complaint and are cloaked in various kinds of conspiracies of silence,” only revealed years later and “usually only through anonymous statements....”

PCATI and other human rights organizations break the silence publicly:

- “to describe the scope and frequency of (torture);”
- its “moral, legal, and practical gravity;
- to publicize (it);
- to examine how (those responsible) address (it);
- to clarify (its) absolute prohibition under Israeli and international law; and
- to demand” its prohibition “by providing the relevant bodies with useful information and tools.”

PCATI based its report on 90 testimonies: from Palestinian detainees and soldiers who arrested them. Also from published media information and comments from Israeli military and political figures. It covers the period June 2006 through October 2007 and is

symptomatic of a broader phenomenon, largely unrevealed because most abused Palestinians “refrain from submitting complaints.” As a result, PCATI’s cases reflect the tip of the iceberg that’s been “particularly severe over the past eight years” since the outbreak of the second Intifada in September 2000. From then until now, PCATI describes a pattern of abuse that begins from the moment of arrest.

It’s done by force in violation of the prohibition of the practice and the responsibility of soldiers to guarantee detainees’ (in their custody) safety, dignity and physical integrity. Instead they expose them to “ill treatment and humiliation” – on arrest and immediately thereafter, in transit, and at military bases and installations pending transfer to detention facilities.

Abuse Begins at the Start

Most often, soldiers beat Palestinians during and right after painfully shackling them. Plastic handcuffs are used that can only be tightened, not released or loosened, and subjects are kept that way (generally for hours) long enough to cause permanent injury.

In response to PCATI requests, the IDF Spokesperson provided no regulations, procedures or orders regarding use of plastic handcuffs. However, Chief Military Police Officer Order No. 9810 discusses shackling in detention facilities and states: “only metal (devices) are to be used, (and) the tightening of the shackles should be undertaken....to prevent injury to the detainee (particularly to blood vessels).”

Violence and threats are also common from the start. Besides painful shackling, subjects describe being blindfolded, threatened with weapons and death, accused of harboring suicide attackers, shouted at, beaten, kicked, punched in the face, and in at least one instance told his house would be destroyed and burned. Complaining did no good. It incited more abuse.

Treatment During Transport - From Place of Arrest to Detention Facilities

This is stage two of abuse and humiliation – inside military vehicles. Subjects are made to sit or lie on their floors and at times are thrown on them. They’re bare, hot, and when soldiers step on detainees’ heads or bodies (a frequent practice) abrasions and injuries result. PCATI again found no orders or procedures regulating transport, so detainees are subjected to the whims of their captors while on site commanders look the other way.

Treatment in Temporary Army Base Detention

Here, too, abusive practices continue the way one detainee described: “I was put in a small room and they beat my legs. They put me on the floor. Then I felt one of the soldiers take something from the floor and beat me on my head and shoulders....Then they took me out into a concrete yard and tied my handcuffs to a concrete pole and made me sit on the ground and they beat me. Every hour or half hour they would beat me on the face.” Lack of oversight and procedures invite ill treatment, and soldiers take full advantage. It’s painful, protracted and humiliating – sometimes so extreme that subjects lose consciousness or require hospitalization.

Sting dogs are also used and trained for one of five purposes: “assault, identification of explosives, scouting, weapons and ammunition searches, or rescue and release.” Mere

contact with dogs terrify and humiliate detainees who feel “dishonored whenever (these animals are) close to” or touch them.

Officially, sting dogs never attack “innocent persons,” according to the IDF Spokesperson. But one soldier explained that they’re trained for assault and “seek humans (by) their scent.” Another sergeant confirmed that these dogs attack people, “more than once,” because they’re trained to do it:

- on indicators like gunshots or scent; no human order is needed;
- they move at some distance from their handlers, alongside soldiers not trained to control them; and
- they’re trained to be highly aggressive and capable of causing serious injury.

A Sting unit commander confirmed that these dogs “neutralize and attack hostile elements....seizes a subject and won’t let go.” They present a serious and imminent danger to any designated target – in some cases children identified as “wanted persons.” Without oversight and procedures, soldiers can easily abuse them with Sting dogs.

Under Israeli law, minors are of special concern – defined as persons under 18, or under Occupied Territory military orders, youths under 16. Israeli law affords special protection to minors, yet, in practice, it’s solely for Jews.

Nonetheless, Israel is a signatory to the 1989 Convention on the Rights of the Child that’s explicit and binding in its provisions:

- that “every human being” below 18 is a child;
- that the state must ensure that their economic, social and cultural rights, safety and welfare set forth in the Convention are protected “without discrimination of any kind” with regard to “race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status,” including their “right to life....survival (and) development;”
- that all measures shall be taken to protect children from physical and mental violence, exploitation or ill treatment; and
- that children deprived of liberty shall be treated with humanity and not subjected to torture or other abusive or degrading treatment, in accordance with international human rights and humanitarian law.

Nonetheless, clear evidence shows that soldiers exercise no special caution in arresting and detaining minors. At times, they exploit their weaknesses – beating, abusing and terrifying them for merely throwing stones. PCATI characterizes this treatment as “just one link in a chain” of abuse beginning with arrest – in violation of international law and “accepted legal and moral standards in....Israel.”

A Yesh Din human rights report showed that Occupied Territory Palestinian minors are prosecuted as adults under Israeli military law since no military juvenile courts exist. Prosecutors and judges make no distinction or reference to age nor did the IDF Spokesperson when asked to clarify special orders or procedures regarding minors. As a

result, they're treated no differently than adults. No monitoring or procedures are in place, so the "grave consequences of this action can be anticipated in advance."

PCATI describes abusive practices throughout the Occupied Palestinian Territories (OPT) and "not confined to one or two military units." Evidence obtained confirms a much broader phenomenon than testimonies revealed, and other human rights organizations concur - a pervasive, systematic practice going back "many years."

Israel Radio military correspondent, Carmella Menashe, discussed it in one broadcast:

"How can it be that....these events keep repeating themselves and....no one is bothered....And this is the morality of the IDF; these are the most basic values to which soldiers should be educated from the (start); it isn't (about) Palestinians....(it's) about normative behavior, the most basic things....(how) a soldier in the IDF (can commit such abusive acts); it (comes down to) some kind of disregard for the lives of Palestinians" who simply don't matter to these soldiers.

For their part, military officials don't recognize the phenomenon and thus end up encouraging and reinforcing it. So do the Knesset, courts and respective governing administrations.

Treatment After Arrest

Israeli military law contains the specific offense of "ill treatment" that prohibits soldiers from abusing persons in their custody. Those found guilty face up to three years in prison and under "aggravating circumstances" up to seven years. In many of the instances PCATI uncovered, abuse amounted to "torture."

According to military law, "ill treatment" may be committed by one soldier against another or against someone "in custody for which the soldier is responsible" - characterized by denying the person's liberty.

A vast discrepancy of power exists between captive and captor. It's exploited whenever soldiers use violence and abusive practices against shackled, blindfolded and defenseless detainees denigrating their human dignity. Also when they endanger their lives or health or deviate from standard procedures.

In nearly all cases examined, this, in fact, happened as soldiers committed assault or assault in "aggravating circumstances." These are military "ill treatment" offenses and civilian ones under penal code articles 378 - 382. Other penal code offenses as well such as injury, battery, forcible extortion, ill treatment of a minor, and so forth. In all cases, soldier-committed violence against shackled detainees is a "criminal phenomenon (subject to penalties) under an entire system of offenses in Israeli criminal law."

Even so, in the few cases where soldiers were prosecuted, penalties imposed were minor compared to similar civil court convictions. And rarely are commanders charged even when they order detainees harmed, or they simply witness or know abuses occur but fail to intervene. At most in these cases, higher-ranking officers go before a disciplinary hearing, get charged with conduct unbecoming an officer, and receive suspended sentences. Never do senior commanders answer for ill treatment charges against their subordinates.

Coercive Field Interrogations

The Military Justice Code authorizes no operational need to beat or ill treat detainees under arrest. But enforcement, in fact, is lax and international law dismissed. It results in what PCATI discovered in spite of military investigatory bodies responsible for interrogation and prosecution. Three exist under the Military Justice Code:

- an examining officer;
- the Military Police Investigation Unit (MIU); and
- an investigative judge.

In most cases, alleged offenses are examined by an examining officer or investigative judge (in cases of death) before offenders are prosecuted in a military court. Examining officers hear witnesses, examine evidence, order suspect arrests, and recommend if prosecutions are justified. In practice, investigations are inadequate so few cases, in fact, enter the legal system and few offenders end up convicted.

According to Knesset member Ophir Paz-Pines: Unaccountability for abusing Palestinians is no “small problem – it is a big problem.” It was so bad during 2003 – 2005 that the Knesset Foreign Affairs and Defense Committee’s Preparedness and Routine Security Subcommittee described operational debriefings as “out of control.” Most complaints charged go unaddressed, and most that are end up dismissed for “lack of evidence” or because accused soldiers are believed over complainants.

The result – almost no prosecutions or convictions. At most around two a year throughout the Intifada period when abuses were rampant and extreme. Furthermore, months go by before complaints are examined during which time many accused complete their service, return to civilian life, and end up free from prosecution or conviction.

Military courts are supportive. They:

- abstain from most investigations;
- rely on non-professional debriefing institutions with clear conflicts of interest and histories of false reporting;
- manage their few investigations unprofessionally with no regard for justice; so
- allow criminal abuse to go unpunished or barely so while absolving perpetrators of their responsibility; even rare convictions show leniency and send a powerful message: Palestinian rights don’t matter so act with impunity; an obvious concern is raised; Palestinians face enormous obstacles getting justice in all Israeli courts; in military ones (against their own soldiers) it’s near impossible; solution: an international law requiring:
- civilians to be tried in civil courts;
- soldiers as well when their victims are civilians; and
- military courts for their own personnel solely in cases of military offenses.

Further, binding rules, procedures and guidelines must be in place as well as proper training, supervision and monitoring to insure that arrests, detentions and prosecutions are

justly handled. Israel's military relies solely on the "values (spirit and norms) of the IDF." They're woefully inadequate, unresponsive to Arab rights, and always produce injustice. PCATI puts it this way: "Given this reality, it is hardly surprising that an examination of the actual behavior of the military, as distinct from its declarations, also reveals denial, evasion, and obfuscation."

Thousands of Palestinians are arrested, detained and abused. With little or no accountability, here's how one Israeli soldier put it: "When you deny thousands of people a day (free) movement, it is impossible to do it in a nice way." Nonetheless, government and military officials deny there's a problem. Examples of publicly exposed abuse are called exceptions or errors in judgment that are "dealt with exhaustively," according to the IDF Spokesperson. In fact, testimonies and reports reveal a widespread phenomenon.

Denial and cover-up assure its continuance, legitimization, and destructive consequences. And guilt goes right to the top - to senior Defense Ministry generals and Ministers of Defense. To Knesset members as well and ruling party officials. A review of unclassified Knesset Foreign Affairs and Defense Committee materials from 2003 - 2008 reveals no discussion of Palestinian detainees ill treatment - in spite of "countless reports in the media....by soldiers," and by human rights organizations like PCATI, B'Tselem and others. The Committee "failed to fulfill its function and obligation" to supervise the security establishment, identify problems and propose solutions. As a consequence, human rights abuses continue unabated.

PCATI Recommendations for Change

International law is clear. As an occupying power, Israel is obligated to assure Palestinians' welfare, safety and rights:

- recognizing the existence of the problem comes first; widespread ill treatment exists and must be addressed equitably;
- reporting, inspection and enforcement mechanisms must be established to do it;
- military and security forces must take the lead - through "tangible objectives for securing a drastic reduction in as short a period of time as possible (toward) the ultimate goal of completely eradicating this phenomenon;
- high level examination of the problem should be made public, shared with commanders and soldiers, the media, and members of the Knesset - to send a clear message that this behavior won't be tolerated;
- Defense Ministry orders, directives, procedures and guidelines should be established:
 - (1) to assign responsibility;
 - (2) define its range;
 - (3) how it's transferred;
 - (4) the command and residual responsibility for abusers to avoid the excuse that they can't be located;

- (5) identify weak spots where ill treatment occurs;
- (6) neutralize them by command presence or through a controlled physical space;
- (7) allow no contact between dogs and detainees;
- (8) give special attention to the arrest and detention of minors; and
- (9) define arrest, transfer and detention procedures; the nature of an “imprisonment facility” as well as other defined guidelines and allowed procedures and practices.

In addition:

- everything must be in writing and available to every soldier;
- they should be fully briefed and trained;
- no deviations should be tolerated;
- adequate resources should be available for arrests through incarceration;
- all arrests should be documented in detail;
- training and procedures must assure detainee well-being, absolutely prohibit ill treatment, and require it be reported when observed;
- assure binding and meaningful monitoring and enforcement of the rules; and
- have the Knesset, administration and appropriate government bodies and officials involved to assure ill treatment won't be tolerated, and when it happens, those at the top share culpability.

It's up to the entire Israeli establishment to own up to the problem, recognize its gravity, and establish strong binding measures to eliminate it. Toward that end, PCATI and other human rights organizations and their supporters will continue to “expose and highlight this phenomenon” that continues to inflict great harm on defenseless Palestinians.

United Against Torture (UAT)

UAT is a (2005 established) “coalition of Israeli, Palestinian and international NGOs (united) against the practice of torture and ill-treatment in Israel and the Occupied Palestinian Territories (OPT)....”

In December 2007, it issued its second annual report on “torture and other cruel, inhuman or degrading treatment or punishment” - through the period ending October 2007. It's based on questionnaires “to various stakeholders in Israel and the OPT, including the EU Tel Aviv Delegation (ECD), European Commission Technical Assistance Office for the West Bank and Gaza (ECTAO), EU Ambassadors and/or other relevant EU contact persons in EU Missions, and NGOs particularly active in this field.”

UAT states that its report doesn't address specific instances of torture and abuse. Its purpose is to provide an overview of how “the EU and its Member States contribute to the prevention and eradication of torture” in Israel and the OPT.

It cites “EU guidelines against torture and ill-treatment.” Some are as follows:

- “prohibit(ing) torture and ill-treatment in law, including criminal law;
- condemn(ing), at the highest level, all forms of torture and ill-treatment;
- tak(ing) effective legislative, administrative, judicial and other measures (against torture and ill-treatment);
- adher(ing) to international norms and procedures....;” and
- “combat(ing) impunity to hold perpetrators liable, establish(ing) reporting procedures, and provid(ing) reparation and rehabilitation for victims.”

UAT cites various international laws against torture and abuse to which Israel is a signatory, including:

- the 1966 International Covenant on Civil and Political Rights (ICCPR);
- the 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and
- the 1989 Convention on the Rights of the Child (CRC).

International laws are clear. They not only prohibit torture and abuse, they legally bind states to undertake independent, impartial, and effective investigations into allegations and suspicions of these practices. They also require perpetrators be prosecuted and punished, that redress be afforded to victims, and that continuance of these crimes are banned.

UAT states: “if there is something (all) humanity (can) agree (on at least theoretically), it is that (preserving individual dignity in difficult situations requires that) we all conform to some elementary (common) standards of conduct.” Otherwise, we risk “perishing in a mutual spiral of non-ending violence.”

Israel on the Issue of Torture

Israel is a self-professed democracy, yet defines itself as a Jewish state, treats Jews preferentially, and affords them special rights and privileges denied those of other faiths. The country has no formal constitution. It’s governed by its Basic Laws that guaranteed no human rights until the 1992 “Basic Law: Human Dignity and Freedom” passed. It authorized the Knesset to overturn laws contrary to the right to dignity, life, freedom, privacy, and property as well as to leave and enter the country. The law states:

“There shall be no violation of the life, body or dignity of any person. All persons are entitled to protection” of these rights, and “There shall be no deprivation or restriction of the liberty of a person by imprisonment, arrest, extradition or otherwise.”

Another Basic Law deals with “The Right to Life and Limb in Israeli Law.” It implies that life is sacred and states: “Israeli law has abolished the death penalty for murder (and corporal punishment).” The 1998 “Good Samaritan Law” requires assistance be given in situations “of immediate and severe danger to another.” These provisions are for Jews only because Basic Law provisions deny equality for non-Jews in spite of the following language:

Israeli law affirms “Fundamental human rights....founded upon recognition of the value of the human being, the sanctity of human life, and the principle that all persons are free.” Israeli Basic Law exists “to protect human (life,) dignity and (assure that) All government authorities are bound to respect (these) rights under this Basic Law” – with one proviso: Israel is a Jewish state so all rights, benefits, privileges and protections are for Jews only. Others are unwelcome, unwanted, unequal, and afforded no protections under the law.

Further, and in spite of unambiguous international laws, torture, abuse, cruel, inhuman or degrading treatment aren’t designated crimes under Israeli law. But the 1977 Penal Law prohibits torture and provides criminal sanctions against it in language similar to the UN Convention against Torture.

Nonetheless, Israel maintains that it “officially proclaimed (a) state of public emergency from 19 May 1948, four days after its founding, until the present day.” It remains in force “due to the ongoing state of war or violent conflict between Israel and its neighbours, and the attendant attacks on the lives and property of its citizens.” It thus illegally deviates from international law provisions that differ from whatever means it chooses to protect its liberty and security. By implication, torture and ill treatment are permissible. Exceptional conditions are normal, and temporary is permanent in direct contradiction to accepted norms and standards.

UAT states: freedom “from torture and other forms of ill-treatment or punishment may not be violated under any circumstances (and) states of emergency” allow no exceptions. The right to be free from torture and abuse is sacrosanct. Permissible “temporary” deviations allow no basic human rights violations. Such acts are strictly prohibited under accepted international laws to which State Party signatories are bound at all times, under all conditions, with no exceptions.

Yet Israel inflicts torture and ill treatment “in the context of the arrest and interrogation of persons suspected of being security threats” even when no charges against them are brought and no substantiating evidence exists. So practices like the following are common:

- beatings;
- sleep deprivation;
- painfully tightened hand cuffs;
- violent shaking;
- kicking;
- sharp twisting of the head sideways or backwards as well as painful twisting of arms, wrists and hands under conditions when they’re tied to backs or other parts of chairs;
- the painful and injury prone “frog” crouch on tiptoes with hands cuffed behind the back;
- the “banana” position involving bending the back in a painful arch while extending the body horizontally to the floor on a backless chair – with arms and feet bound beneath it;
- cuffing behind the back and shackling legs in the “shabah” position – a prolonged, painful binding of detainees’ hands and feet to a standard-sized upholstered, metal frame, rigid

plastic chair fixed to the floor with no armrests;

— using informer-collaborators to get information;

— prolonged isolation, including psychologically harmful solitary confinement in tiny cells under painfully oppressive conditions designed to crush human resistance; as well as

— cursing, humiliating and degrading treatment, strip searches, physical threats, and other practices designed to soften up detainees for questioning.

NGOs also harshly criticize Israeli prison conditions and family hardships faced to visit loved ones. Restrictions are onerous:

— only first-degree relatives may come; and

— male visitors between 16 and 35 are severely restricted; brothers get only one visit a year and sons only two; wives are also restricted; and

— families need ICRC transport help to visit prisoners inaccessible to them otherwise because of distances involved and travel prohibitions.

UAT believes that human rights violations “are at the heart of the Middle East conflict” and directly affect “Israel’s own stability and security.” Yet Israel won’t discuss them, and little compliance pressure is applied because of the country’s “special status” with the EU and, of course, Washington. As a result, in spite of persistent human rights violations, the US turns a blind eye, and EU countries prefer dialogue to punishment, including sanctions against Israel with teeth.

Palestinians throughout the Territories lose out, but Hamas and Gazans under siege feel it most. They believe the international community and fellow Arab states abandoned and betrayed them and are leaving them to rot in spite of EU member states pledging billions to help build a Palestinian state at the December 2007 Paris Conference. Given Israel’s alliance with the West, past pledges made and broken, and current conditions in Occupied Palestine, it’s hard to imagine any of these funds going for meaningful improvements on the ground. It’s easy to believe they’ll finance Israel’s security state and harm Palestinian interests.

UAT underscores the problem this way:

“Israel’s sensitivity (in) dealing with....human rights (issues) and the problem of torture and ill-treatment makes any dialogue on these matter particularly slow and complex....” So much so that EU member states “may become overly reluctant to raise such issues systematically, consistently and firmly, notwithstanding their legal and political duty to put human rights in the centre of their foreign and security policy.”

Dialogue nonetheless is ongoing. Human rights are addressed, but “apparently not the subject of torture and ill-treatment....Given the political realities in Israel and the OPT, progress in preventing and eradicating torture and ill-treatment must be regarded as a mid-and-long-term goal” in spite of modest NGO successes.

Overall, challenges to ending torture are formidable and numerous. In dealing with Israel, “there is never a good moment to raise human rights questions (and) always a reason for not doing something....” But UAT is forthright: despite Middle East tensions, political reality,

and complexity of tough issues, no excuses justify EU member states for not “strongly and consistently promot(ing) full compliance with basic and absolute legal obligations to protect individuals’ most fundamental rights.” Action must overcome challenges on issues like these:

- Israel’s “extreme sensitivity” to criticism of its human rights record;
- its security argument and state of war to justify abuses and disdain for international law;
- its lack of political will to end 41 years of occupation;
- its lack of accountability on issues of “necessity,” including sanctioning torture and abuse;
- its abusive detention conditions, including:
 - (1) denying Palestinians access to legal counsel during interrogations;
 - (2) interrogation methods used;
 - (3) overall policy brutality, including torture and abuse;
 - (4) horrific prison conditions;
 - (5) inadequate medical care and unseemly role of doctors during interrogations; and
 - (6) highly restrictive prison visitation rules. Also:
 - limited contact between NGOs and the Israeli government and practically no chance to exert influence;
 - the EU’s lack of political will to “interfere” in Israeli “affairs;” member states have practically given up because “it is not worth having a fight with Israel;”
 - EU-Israeli economic ties relegate human rights issues to second tier status; and
 - mistaken EU Middle East policy allied with America instead of forging an independent one.

UAT notes that various human rights organizations have lost faith with the international community, including the EU and UN. They prefer their own efforts and resources, legally and politically, for whatever modest gains they can get rather than none at all from ineffective nations.

UAT conclusions are as follows:

- information on guidelines and their implementation is essential to eradicating torture and abuse;
- NGOs are highly respected, and their information is considered accurate; but some of them have more contact with EU members than others;
- given Israel’s sensitivity and growing economic ties, EU states have considerable

discomfort raising issues of torture and abuse; however, to some degree (if inadequate) they've engaged on matters of administrative detentions, the Separation Wall, and West Bank settlements; yet their efforts come down to this: with minor exceptions, no successes have been achieved and Israeli policies continue unabated; so EU efforts amount to little more than a "balancing act" - to maintain good relations with Israel for appropriate political and economic gains; and

— on a positive note, EU states have contributed "financial assistance to civil society actors in Israel and the OPT;" but it doesn't substitute for positive pressure and action.

Recommendations

- hearts and minds on all sides must be changed to eradicate torture and abuse;
- America's moral leadership is defunct so EU states must take the lead and stick to their legal, political and ethical principles;
- they must overcome individual differences and "act as one entity;"
- they must press their advantage with Israel; economic gains have a price - improving the country's human rights record, particularly regarding torture and abuse, and complying fully with international law obligations;
- NGOs should press for laws penalizing torture, cruel, inhuman or degrading treatment or punishment; they should also lobby for independent, impartial and competent remedies to these practices in accordance with international law; and
- they should address all other violations and enforcement of international laws prohibiting them.

Ending the cycle of violence is challenging. Time and will are needed. It starts by respecting everyone's equal rights and their intrinsic human worth. If agreement on not resorting to violence can be achieved, "the magic key to peace, justice and true security" may be at hand, but it'll take a determined effort to turn it constructively and no time to waste doing it.

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