



Joint Written Submission
 United Nations Human Rights Council
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The Systematic Use of Torture and Other Ill-Treatment Against Palestinian Detainees in Israeli Interrogation Centres

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Since 1948, Israel has adopted laws and carried out policies and practices facilitating the systematic use of torture and other ill-treatment, while granting impunity for the perpetrators of the crime of torture. Since the beginning of the Israeli occupation of the occupied Palestinian territory in 1967, 73 Palestinian detainees have been killed during Israeli interrogation. Israel’s systematic use of torture and ill-treatment against Palestinians forms part and parcel of its institutionalised regime of systematic racial oppression and domination over the Palestinian people. Embedded in a system of impunity, Israel’s use of torture and other ill-treatment against Palestinians, sanctioned by Israeli courts, has sought to weaken the ability of Palestinians to effectively challenge the many facets of the legal regime maintained by Israel, which amounts to apartheid within the meaning of the Rome Statute of the International Criminal Court.¹ The systematic and wide-scale use of torture against Palestinians is not limited to detention centres but is further reflected in other varied circumstances relating to Israel’s closure and impacting Gaza’s residents.²

Escalation in the Use of Torture and Other Ill-Treatment

Towards the end of 2019, Israel’s Security Agency subjected a number of Palestinian detainees at al-Mascobiyya Interrogation Centre in Jerusalem to severe physical and psychological torture and other forms of ill-treatment. Addameer is the legal representative of around 50 of these Palestinian detained victims.³

The victims include university students, human rights defenders, and political leaders. The torture methods used against them included, *inter alia*, harsh beating, sleep deprivation, solitary confinement, stress positions, the denial of basic hygiene needs, sexual harassment, pulling

¹ Rome Statute of the International Criminal Court (hereinafter ‘Rome Statute’), Article 7(2)(h). *See also* Al-Haq, “Palestinian, regional, and international groups submit report on Israeli apartheid to UN Committee on the Elimination of Racial Discrimination,” 12 November 2019: <http://www.alhaq.org/advocacy/16183.html>.

² *See* Al Mezan, “Impunity for Torture, Ill-treatment and related practices in Israel,” 19 March 2019: <http://mezan.org/en/post/22497>.

³ For more information, *see* Addameer, “The Systematic use of Torture and Ill-Treatment at Israeli Interrogation Centers: Cases of Torture Committed at al-Mascobiyya Interrogation Center,” 23 January 2020: <http://www.addameer.org/publications/systematic-use-torture-and-ill-treatment-israeli-interrogation-centers-cases-torture>.

facial and body hair from its roots, and intensive psychological torture, often by threatening to harm family members and/or other detainees. The severe torture to which these detainees were subjected led to injuries, broken bones, fainting, vomiting, and bleeding in different parts of the body (nose, mouth, hands, legs, and genital areas). The detainees were also subjected to false medical assessments made by doctors at al-Mascobiyya Interrogation Centre, who stated in almost all cases that the detainees were physically fit to continue to undergo interrogation, disregarding the clear signs of torture.⁴ Furthermore, it was evident from the medical reports obtained by Addameer's lawyers, that the clinic's doctors do not document cases of torture and other ill-treatment, in accordance with the Istanbul Protocol manual.⁵

Complicity of Israeli Courts in the Use of Torture and Other Forms of Ill-Treatment

According to Israeli military laws, detainees may undergo interrogation for a period of 75 days without receiving any official charges, and may be banned from meeting their lawyers for a period of 60 days. The cases of detainees addressed in this submission were held under interrogation for extremely long periods, and were denied lawyers' visits and legal consultation. Around 200 orders of banning lawyers' visits were issued within three months, and were renewed several times. In some cases, the duration of the denial of lawyers' visits ranged between 30 to 45 days. The denial of lawyers' visits remained in effect even at court sessions that occurred during the interrogation period. Palestinian detainees are systematically deprived of their right to counsel in the most critical periods of their detention.⁶

Addameer's lawyers filed 22 petitions to the Israeli High Court against the denial of lawyers' visits orders, of which 18 were rejected. Addameer's lawyers have also filed 80 appeals to the Israeli Military Court of Appeals against the detention of the victims. Only 12 appeals were accepted, but resulted only in shortening the detention period, which continued to be renewed. The other 68 appeals were all rejected, despite the fact that the judges had seen clear evidence of torture on the victims' bodies, and were informed in detail of their medical conditions.

Israel's institutionalised impunity reveals the complicity of Israeli judicial bodies, notably the Israeli military courts and Israel's High Court, and their role in sanctioning rather than prosecuting torture and other forms of ill-treatment against Palestinian detainees. Court hearings lack guarantees of competent, independent, and impartial due process.⁷ Israeli judicial mechanisms are systematically biased toward the requests and needs of the Israeli intelligence agency. The continued extension of interrogation periods for victims of torture and ill-treatment by Israeli judges, with prior knowledge that they had been subjected to such acts, is evidence to the complicity of Israel's legal system in the use of torture and other ill-treatment.

⁴ For more information, see Addameer, "Addameer Collects Hard Evidence on Torture and Ill-Treatment Committed against Palestinian Detainees at Israeli Interrogation Centers," 23 December 2019: <http://www.addameer.org/news/addameer-collects-hard-evidence-torture-and-ill-treatment-committed-against-palestinian>.

⁵ Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations, 2004.

⁶ Denial of right to counsel is in violation of Articles 72 and 123 of the Fourth Geneva Convention; Additional Protocol I, Article 75(4)(a), and Article 14(3) of the International Covenant on Civil and Political Rights (ICCPR).

⁷ ICCPR, Article 14(1).

Addameer was only able to obtain photo evidence of torture in one case, the case of Walid Hanatsheh. In Walid's case, the Israeli military court judge accepted the requests made by Addameer's lawyer and ordered the detention centre's doctor to document, in pictures, the torture marks on Walid's body. Addameer was unable to obtain visual documentation of torture of the other detained victims. For instance, in the case of Samer Arbeed, who was arrested outside his workplace on 25 September 2019 and was subjected to severe forms of torture and other ill-treatment at the hands of Israeli interrogators, the Israeli interrogation centre refused to allow the victim's body to be photographed, despite the fact that Samer had been hospitalised subsequent to being severely tortured.

Israeli interrogators, doctors, and judges are all complicit in masking the use of torture and ill-treatment in Israeli detention, as starkly revealed in court sessions and their protocols. For example, Palestinian detainee, Mais Abu Gush, had informed the judge of her dire detention conditions and the torture methods to which she was subjected. Following the court hearing, Mais's lawyer noted that part of her statement had been covered in black in the court hearing's protocol. This is one example of practices used in Israeli courts to withhold evidence of crimes of torture.

Despite the absolute and non-derogable prohibition against torture enshrined under Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and ratified by Israel on 3 October 1991, torture against Palestinian detainees remains widespread and systematic in Israeli occupation prisons and interrogation centres. The cases highlighted in this submission present only a fraction of evidence of the gross use of torture and ill-treatment and, critically, the complicity of Israeli judges at military and civil courts. In fact, torture has been repeatedly sanctioned by a series of Israeli High Court decisions. In High Court Decision No. 5100/94 (1999),⁸ the Court established a serious legal loophole that legitimizes the use of torture and other ill-treatment by Israeli interrogators against Palestinian detainees. This loophole is also used to circumvent the prosecution of the perpetrators, while granting them impunity for their crimes.

According to the Public Committee Against Torture in Israel, about 1,200 complaints alleging torture in Israeli interrogations have been filed since 2001, but no indictments were ever brought.⁹ In October 2019, United Nations (UN) human rights experts, including the Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967 and the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment expressed their concern over the "serious gaps in Israel's laws and practices that may be in violation of an absolute prohibition of torture or cruel, inhuman or degrading treatment or punishment, including through allowing the use of so called 'special interrogation measures'".¹⁰

⁸ H CJ 5100/94, *Public Committee Against Torture in Israel et al. v. Government of Israel et al.*, Judgment. See English translation of the Court decision at: http://www.hamoked.org/files/2012/264_eng.pdf.

⁹ PCATI, "Torture in Israel 2019: Situation Report," 26 June 2019: <http://stoptorture.org.il/2927/?lang=en>.

¹⁰ OHCHR, "Israel must uphold obligation to prevent torture and investigate claims over Samer Al-A'rbeed, say UN rights experts," 18 October 2019: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25168&LangID=E>.

Conclusion and Recommendations

The absolute prohibition against torture and other ill-treatment constitutes a peremptory norm of international law and gives rise to State responsibility to bring to an end Israel's systematic use of torture and other ill-treatment. Accordingly, we call on the Human Rights Council and all UN Member States to:

- i. Recognise Israel's widespread and systematic use of torture and other forms of ill-treatment against Palestinian detainees in Israeli interrogation centres;
- ii. Call for prompt, genuine, independent, and transparent investigations into all cases of torture and other ill-treatment, including cases of death in Israeli detention; and
- iii. Hold perpetrators to account for the crime of torture, including in their own jurisdictions and at the International Criminal Court.¹¹

ADDAMEER Prisoner Support and Human Rights Association, Al Dameer Association for Human Rights, Civic Coalition for Palestinian Rights in Jerusalem, Community Action Center (Al-Quds University), Jerusalem Legal Aid and Human Rights Center, and Ramallah Center for Human Rights Studies, NGO(s) without consultative status, also share the views expressed in this statement.

¹¹ Rome Statute, Articles 7(1)(f) and 8(2)(a)(ii).