

TORTURE

for SECURITY:

**the systematic torture
and ill-treatment of palestinians in israel**

By:

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(Melissa Phillips is an international human rights lawyer, and was a member of al-Haq's research staff between 1988 and 1992)

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TORTURE FOR SECURITY

Preface

Since its inception in 1979, al-Haq has been concerned with the problem of torture in Israeli interrogation centers. This study represents the culmination of many years of al-Haq's efforts aimed at achieving a cessation of the practice, and at alerting the international community to the prevalence of this systematic, widespread and gross violation of Palestinian human rights. *Torture for Security* is the most recent of many studies and reports undertaken by al-Haq and other human rights organizations.

When documentation for this study was first initiated in 1990-91, the Intifada was in full momentum and no signs of any change in the political environment were on the horizon. Since then, significant moves towards a peaceful settlement of the Palestinian-Israeli conflict have been undertaken, specifically, the signing of the Declaration of Principles on Self-Government Arrangement for Palestinians in Oslo on 13 September 1993 and consequent implementing agreements. In May of 1994, a Palestinian National Authority was accordingly established in Jericho and the Gaza Strip.

There was of course some hope that these recent political developments may end the practice of torture. Al-Haq is aware, however, that unless the systematic nature of torture, as explicated in this report, is addressed, torture in Israeli detention will continue. To date, these fundamental political developments have not altered Israeli practices in the West Bank. None of the interrogation rules and procedures explained and criticized in this report has been amended. While a number of Palestinian political prisoners have been released pursuant to agreements made, new arrests are taking place every day.

In fact, not only have interrogation techniques used by Israeli interrogators and allowed by the Landau Commission (discussed thoroughly in this report) not been ameliorated, but more abusive methods going beyond the definition of "moderate physical and psychological pressure" are being implemented, decided at the highest levels of the Israeli government. In the aftermath of the bombing death of 22 Israeli citizens in Tel Aviv, and the kidnapping of Nachshon Wachsmann, Prime

Minister Yitzhak Rabin suggested on 19 October 1994 that harsher methods of interrogation need to be legislated for. The following day, Israeli Minister of Justice David Liba'i made a statement to the effect that interrogation guidelines need not be amended, as they already included exceptions to allow investigators to handle "ticking-time-bomb" cases. On 13 November, Mr. Liba'i announced that as regards investigations and interrogation, a decision was made "to help strengthen the forces to fight the wave of terror of Hamas and Islamic Jihad." That decision was confirmed and extended by the Ministerial Committee on Shabak Affairs, headed by Prime Minister Rabin, on January 23, 1995 in the aftermath of the Beit Lid bombing that killed 19 Israeli soldiers and civilians. The outcome of such decisions is bound to be more severe torture of Palestinian detainees.

On 24 April 1994, the Committee Against Torture considered Israel's first report, presented to the Committee in accordance with Israel's commitment as a Party signatory to the Convention Against Torture and Other Cruel, Inhuman or degrading Treatment or Punishment (CAT). Al-Haq also presented a detailed analysis of Israel's report to the CAT Committee as an NGO, based on the extensive documentation contained in this publication. Amnesty International also intervened with the Committee. After deliberation, the Committee determined that the doctrines of "necessity" and "superior orders" contained in Israeli law are in clear breach of CAT; that the use of "moderate physical pressure," as recommended by the Landau commission, being a legal method of torture under domestic law, is unacceptable. The Committee's recommendations were consistent with al-Haq's long-held position that there should be an immediate cessation of practices which are in violation of CAT; that interrogation guidelines contained in the secret annexes to the Landau Commission Report should be published in full; that all provisions of CAT should be incorporated into Israeli law; and finally, that all victims of torture should have the right to compensation.

Clearly, more follow-up documentation will need to be conducted to ascertain the trends and any new patterns in Israeli interrogation procedures. Thus, in al-Haq's view, despite the momentous political developments and perhaps because of these developments, this study on Israeli torture practices promises only to be the most recent rather than the last. Despite the fact that it is based on records at least three years old, it continues to be timely and necessary. In the quest for long-lasting peace, justice must be perceived to have been achieved. That justice can only be

predicated on a truthful account of past abuses. The major documentation effort contained in this study remains an important historical record and a contribution, albeit partial, to that account.

Moreover, the analysis of the systematic nature of Israeli torture techniques provides a curious case study of premeditated governmental circumvention of the absolute prohibition of torture in international treaty and customary law. A thorough understanding of existing rules and methods of torture in Israeli interrogation facilities will also help to accurately define any changes or forewarning to the Palestinian authorities themselves of the pitfalls and dangers of legitimizing fundamentally illegal practices.

Most importantly, the need and timelines of this study will never be lost to the victims of torture themselves. It is testimony to that fact that their suffering has been seen, understood, and protested. This, in our view, is no small achievement.

Fateh Azzam
Director,
Al-Haq

Introduction

Torture for "Security" examines the torture and other cruel, inhuman or degrading treatment of Palestinians in Israeli custody during the first four years of the uprising, or Intifada (1988 through May 1992). This issue is of particular concern to all those engaged in promoting respect for human rights in the Occupied Palestinian Territories (OPTs). There are two clear reasons for this concern: (1) the large number of credible reports of torture which support our document and what we have been saying for years; and (2) the fact that the evidence clearly points towards a systematic and, indeed, institutionalized use of torture both to intimidate and to extract information.

This report is based upon an investigation, conducted by al-Haq, which included detailed interviews with over 700 former detainees. To the best of the author's knowledge, this is the most extensive public investigation of torture ever conducted in OPTs. As discussed in depth in Chapters 1 and 2, international human rights and humanitarian laws applicable to Israel provide the legal framework for evaluating the treatment of Palestinians in custody. The definition of torture set forth by CAT, examined in Chapter 2, is the basis for the classification of cases in this report. Pursuant to the applicable international laws, torture as well as other cruel, inhuman or degrading treatment is absolutely prohibited under all circumstances.

Describing circumstances which often coincide with the systematic use of torture, the United Nations Special Rapporteur on Torture observed:

Official doctrines based on national security are common ... torture is systematically used against political prisoners as a means of extracting confessions and suppressing dissidents.¹

[Persons] have no participation in political life and legal remedies ... prove to be ineffective ... The limitations imposed on individual rights and fundamental freedoms often appear to be in direct correlation with the existence of ... emergency legislation [which] allows wide powers of arrest and detention of individuals.²

This report illustrates that these are key features of the systematic torture and ill-treatment of Palestinians in Israeli custody.

During the uprising, the Israeli military authorities relied heavily upon wide arrest and detention powers rationalized on security grounds. As detailed in Chapter 4, such powers permit a range of violations of international laws and norms such as a failure to inform persons of the reason of their arrest, prolonged incommunicado detention, and the use of "moderate physical and psychological pressure" during interrogation. In the past five years, these provisions have been applied on a massive scale.

Israel detained more than 80,000 Palestinians between December 1987 and May 1992. This figure represents approximately 24 percent of the male population of the West Bank and Gaza Strip between the ages of 15 and 54,³ the demographic group which comprises the overwhelming majority of detainees. When viewed in terms of the entire population of the OPTs, this figure represents an incarceration rate of roughly 3809 per 100,000, which, as noted by a US human rights group, "far surpasses that known anywhere else in the world."⁴ Virtually all of these individuals were detained on "security" grounds.

As discussed in Chapter 4, actions classified as security offenses range from failing to carry an Israeli-issued identity card, to possessing a book or other published material without a permit, to throwing stones, to armed attacks against Israelis. Significantly, security offenses have been so broadly defined as to comprise any form of protest or expression -- including that which is non-violent such as flag raising -- by Palestinians of their desire for an end to Israeli military occupation. Thus, in the context of the uprising the systematic use of torture and ill-treatment against "dissidents" serves as both a means of extracting information and confessions as well as an attempt to bludgeon the population into quiescence.

Other examinations of the torture of Palestinians in Israeli custody during earlier periods of the occupation have reached similar conclusions. For example, the 1977 study by the *Sunday Times* concluded that along with extracting information and confessions, torture was used "to persuade Arabs of the OPTs that it is least painful to behave passively."⁵

As al-Haq demonstrated in its first annual report, *Punishing A Nation*, almost none of the measures relied upon during the uprising is without precedent. Similarly, the systematic practice of torture, the purposes it serves and, as shown in Chapter 3, the techniques currently utilized are not new. What is new during the Intifada is the fact that an overwhelming

majority of Palestinians detained have been tortured (see Chapters 5, 6, 7).

1. Scope of Report, Sources and Methodology

According to international definitions, torture may occur for purposes of punishment, intimidation or discrimination, as well as to extract information. Thus, torture can occur at any time during incarceration. Rather than examining the entire period of imprisonment, this report focuses upon the treatment of detainees during the initial period of detention (before formal interrogation, if any, takes place) and during the interrogation process itself. It does not examine prison conditions or forms of illegal punishment once interrogation has been completed.

The cases, statistics, and documentation cited in this report were compiled by al-Haq during an investigation of the treatment of Palestinians detained in Israeli prisons, military detention centers, police stations, and jails at any time between the winter of 1987 and the spring of 1992. The field research was conducted between September 1991 and March 1992 by al-Haq fieldworkers who collected detailed information from released detainees.

Al-Haq's study comprised sworn statements and detailed questionnaires taken from 708 persons, 369 from the West Bank and 339 from the Gaza Strip. It consists of two parts: 1) a random survey of former detainees; and 2) a focused collection of data from persons interrogated. All of the interviews were conducted individually by one of al-Haq's 14 fieldworkers, and in many cases, persons were interviewed more than once. None of those interviewed knew what had been said by others. Medical records and other supporting documentation were also collected.

The first part of the field research included interviews with 474 randomly selected former detainees from the West Bank and Gaza Strip.¹ This research was conducted in the Gaza Strip in randomly selected, clearly defined geographic sections of each of the following refugee camps: Jabaliya, al-Shate, al-Nuseirat, al-Breij, Khan'Younes, and Rafah. Beginning in September 1991, al-Haq fieldworkers went house to house throughout each of the randomly selected areas and interviewed any person

¹ See Appendix A for the questionnaire used in these interviews.

who had been arrested at any time following November 1987. Similarly, in the West Bank, al-Haq fieldworkers conducted interviews with randomly selected persons from Shu'fat, al-Am'ari, al-Jalazon, al-Dheisha, al-'Azza, 'Ayda, al-'Arroub, al-Fawwar, Balata, 'Askar, Jenin, al-Far'a, Nour Shams, and Toulkarem Refugee Camps.²

The second part of the study focused exclusively on persons known to have been interrogated while in Israeli custody. Sworn statements, taken from an additional 234 former detainees, detailed the methods of interrogation used in military detention centers, prisons, police stations, and jails.

These interviewees were brought to al-Haq's attention through word of mouth, reports in local papers, and through canvassing villages, towns and cities. Affidavits were taken from persons residing in the seven different districts of the West Bank including: (1) the town of Jenin and the villages of Bourqin, Ya'bad, Qabatiya and Arrabah in the Jenin District; (2) the town of Toulkarem and the villages of 'Anabta, Shuofeh, Attel, Kufr Thuluth, and Thinabeh in the Toulkarem District; (3) Nablus City, and the villages of Rujib, Kufr al-Dik, Beit Iba, Kufr Qalil, and Asera al-Shamaliyeh in the Nablus District; (4) the towns of Ramallah and al-Bireh, and the villages of Jifna, Sinjel, 'Atara, 'Ein Kinya, 'Aroura, and Sourdah in the Ramallah District; (5) East Jerusalem and the villages of Abu Dis, al-Jeeb, and al-Mukkaber in the Jerusalem District; (6) the town of Bethlehem and the villages of Battir, Artas, al-Khader, Nahhalin and Housan in the Bethlehem District; (7) the city of Hebron and the villages of Sa'ir, al-Samou', Dura, Idhna, and al-Soukh in the Hebron District.

Affidavits were also taken from persons residing in various Gaza Strip towns including Gaza City, Jabaliya, Khan Younes, Beit Hanoun, Beit Lahya, and Khirbet al-Addas.

The geographic distribution of all those interviewed is illustrated by the following charts:

² The fact that those randomly selected for interviews all resided in refugee camps is, in al-Haq's view, of no significance to the inquiry into methods of interrogation used by Israeli personnel. As is evident in the discussion of our findings, there was no evidence of a particular policy applied to residents of refugee camps, and indeed no indication of any distinction between the treatment of refugees and non-refugees before and during interrogation.

West Bank Residence by District for Entire Study

District	Total Interviewed
Jenin	93
Toulkarem	42
Nablus	33
Ramallah	77
Jerusalem	25
Bethlehem	48
Hebron	51
Total	369

Gaza Strip Residence by District for Entire Study

District	Total Interviewed
Gaza	104
Khan Younes	68
Deir-al-Balah	88
Rafah	79
Total	339

Overall, the field research produced a large and diverse case pool. It includes individuals detained for purposes of interrogation, preventative detention, administrative detention, as well as those who were charged, tried, and sentenced in Israeli military courts. The amount of time spent in custody also varied widely from several days to several years (those interviewed had been held for up to three years). The interviewees ranged from minors to senior citizens and were of diverse occupations: primary and secondary school students, university students, day laborers, storekeepers, vegetable sellers, teachers, doctors, and engineers, as well as unemployed persons.

The following two charts provide a breakdown of the entire case pool by age and occupation:

Ages	Total Interviewed
Under 16	37
17-18	86
19-24	313
25-35	232
36-59	38
Over 60	2
Total	708

Occupations³	Total Interviewed
Students	188
Workers	232
Unemployed	123
Skilled Workers	60
Professionals	52
Sales/Service Workers	38
Other	15
Total	708

Despite the basic heterogeneity of the case pool, the overwhelming majority of those interviewed were males between the ages of 19 and 35. In the course of the random survey, very few cases involving Palestinian women were documented. Al-Haq attributes this to several factors, the most significant of which are the relative concentration by the Israeli authorities on Palestinian males of the ages interviewed, and the reluctance of former female detainees to discuss their treatment with al-Haq's predominantly male team of fieldworkers.

³ In this study, "students" includes primary and secondary school students as well as university students; "workers" comprises day laborers and unskilled workers; "skilled workers" refers to carpenters, mechanics, blacksmiths, bakers, tailors, butchers, electricians, fishers, farmers, commercial painters, and plumbers; "professionals and office workers" encompasses doctors, nurses, architects, engineers, journalists, photographers, teachers, employees of non-profit and/or international humanitarian organization, as well as persons employed in various capacities in commercial organizations; and "sales and service workers" means merchants, shop-owners, shopkeepers, sellers, peddlers, grocers, barbers, and money changers.

⁴ See Chapter 4 for a discussion of the ICRC's agreement with the Israeli authorities.

A number of structural factors pose problems for any investigation of the use of torture. Primary among these is incommunicado detention, which the UN Special Rapporteur on Torture described as “the torturer’s bosom friend” precisely because it greatly increases the difficulty of documenting and redressing instances of torture.⁶ Israeli military orders permitting incommunicado detention, discussed in Chapter 4 below, are further reinforced by restrictions on the access by all independent observers, including the International Committee of the Red Cross (ICRC), to detainees during at least the first 14 days of their detention.⁴ Other factors include: keeping detainees hooded or blindfolded for much of the time, creating a situation in which persons do not always see those who participate in torturing and ill-treating them; using code names for interrogators; failing to require that interrogators wear identification badges; using techniques of torture which either do not leave permanent marks or which create no traceable marks whatsoever; and failing to vigorously investigate any complaints of torture or ill-treatment brought to the attention of military court judges by detainees and their legal representatives.⁷

Al-Haq attempted to overcome some of these difficulties by obtaining detailed descriptions of interviewees’ experiences of torture, as well as the pseudonyms used by the particular interrogator involved and physical descriptions of those involved in illegal treatment, if seen by the interviewee. Each report was carefully reviewed for reliability and signs of internal inconsistencies. In addition, in those cases where a former detainee was admitted to a Palestinian hospital upon his release from Israeli custody (and in a few cases, during the course of the interrogation) al-Haq obtained medical records. In other cases, particularly those involving persons released immediately following interrogation, al-Haq fieldworkers were able to examine the individual and personally observe and document any marks on the body. Despite all of these measures, ultimately, the situation is one in which the detainee himself or herself provided the bulk of the evidence.

Al-Haq found the accounts of torture and ill-treatment documented during the course of its study to be highly credible and difficult to refute. Individuals from geographically distinct areas of the OPTs, unknown to each other, gave detailed accounts in independent interviews of essentially

the same practices. Further, particularly during the random survey, a number of individuals described their treatment as commonplace, with the clear implication that they were not worth interviewing, and that their experience, however painful, was not sufficiently note-worthy. Some even politely suggested that we go and talk to someone who had been subjected to something "unusual." The interviewees then went on to describe combinations of practices that were clearly illegal and internationally recognized as constituting torture or ill-treatment.

Moreover, these and other descriptions were not simply obtained in narrative form. Rather, each case was investigated by al-Haq fieldworkers, who questioned each former detainee and obtained as much detail as possible not just about the practices themselves but also (as noted above) about the pseudonyms of the Israeli officials involved, their physical descriptions when available, and descriptions of the specific location or locations where the treatment occurred. This detail allowed a research team at al-Haq to further evaluate the credibility of a particular report in light of other cases documented in the course of the study. Added to these factors is a fundamental consistency between the findings of al-Haq's field research and that of other local and international organizations.

In addition to al-Haq's field research, *Torture for "Security"* draws upon documentary literature and official regulations in Arabic, English, and Hebrew OPTs. Primary among these were Israeli military orders, governmental regulations, the findings of various official Israeli commissions of inquiry as reported by the Israeli government Press Office as well as by the Israeli and Palestinian press.

Summary of Conclusions

- a) According to al-Haq's random survey, 85 percent of those Palestinians taken into Israeli custody are subjected to torture or ill-treatment. Such illegal treatment may occur during the initial period of detention (i.e. upon arrest, in transit to detention facilities, and upon arrival at such facilities), as well as during the interrogation process.
- b) Al-Haq's documentation reveals that at least 94 percent of all those interrogated are subjected to some form of torture or ill-treatment.
- c) the forms of illegal treatment used against Palestinians in Israeli custody prior to and during interrogation appear to be largely standardized. There is a pattern of the use of the same specific practices in the interrogation of Palestinians in places of incarceration -- Israeli prisons, military detention facilities, police stations, and jails -- even though they are under the general administration of different branches of the Israeli government.
- d) The following practices were reported to have taken place during the initial period of detention: beatings -- often with implements -- on various sensitive parts of the body including the head and genitals; *shabeh* -- placing the detainees in physically stressful or painful positions for prolonged periods of time -- while hooded or blindfolded; sleep deprivation; food deprivation; and various other forms of physical brutality and degrading treatment. Such illegal treatment occurs after the detainee is already in custody, and cannot therefore be justified as necessary to effect an arrest.
- e) The practices which appear with a marked degree of standardization during the interrogation of Palestinians include: beating -- often with implements -- on sensitive parts of the body including the head and genitals (and more occasionally, the bottom of the feet); various forms of *shabeh*; hooding by covering the top of the head and the eyes, nose, mouth, and neck with one or more cloth sacks which are sometimes wet, and/or reeking of urine or excrement; isolation in small enclosed spaces often of a cupboard-like or coffin-like construction; various forms of asphyxiation or choking for measured periods of time; food

deprivation; sleep deprivation; forced exposure to extreme temperatures, including hot or cold blowing air and hot or cold showers; and threats to kill the detainee, or to arrest and torture family members, as well as other forms of psychological pressure.

The documentation indicates that in cases where the information thought to be possessed by a detainee is considered of special importance by the Israeli authorities, various practices which do not appear to be standardized may be added to those listed above.

- f) Various combinations of the above practices appear to be used during the interrogation process. A general pattern is suggested by the evidence. This pattern can be described in terms of escalating stages, which each successive stage including more egregious forms of illegal treatment:

State 1: repeated beatings on all parts of the body, *shabeh* accompanied by hooding while hand-cuffed, limited access to toilets (for varying periods of time) and to other sanitary facilities;

State 2: more prolonged physical brutality which specifically concentrates on different parts of the body (beatings on genitals, banging the head against a wall or other solid object), asphyxiation or choking for measured periods of time, *shabeh*, hooding, and isolation in small enclosed spaces, food and sleep deprivation, psychological pressure; and

State 3: more concentrated forms of the physical and psychological force used in state two (such as stripping the detainee before beating with implements); more extreme forms of *shabeh* or the same forms for longer periods of time, accompanied by longer periods of food and sleep deprivation; longer periods of isolation in small enclosed spaces; cold or hot showers (or both); and other measures such as pulling out hair from the body.

- g) These different states do not appear to be automatically applied sequentially. There are exceptions. For example, apparently the importance of the information the detainee is thought to have regarding his/her own actions or the actions of others may lead to the first stage of interrogation being omitted and proceeding immediately to interrogation at the second or third state; while a persistent refusal to confess, provide information regarding others, or otherwise collaborate

with the authorities may lead to the second stage being skipped as well. Nonetheless, the weight of the evidence suggests the general pattern outlined above.

- h) The evidence reveals the existence of permanent installations, instruments, and implements used for the torture and ill-treatment of detainees. The installations include specially constructed cupboards or closets often with built-in concrete seats which exist in Israeli Prison Services prisons in Nablus, Hebron, Ramallah, Jenin, and Gaza, military detention centers including al-Dhahriyya, al-Far'a and Ansar 4 [Khan Younes] and in the central Israeli police jail in the Russian compound in West Jerusalem (*al-Moscobiyya*). A related construction, known as the "refrigerator" due to the addition of vents through which cold air can be blown, exists in the Gaza, Hebron and Nablus Prisons. Other permanent instruments include metal hooks embedded in the wall to which detainees are attached, similar hooks or bars affixed lower down to which detainees' hands are often bound during *shabeh*, and vertical bars to which detainees' hands and feet are sometimes shackled. Specially constructed implements such as hoods utilized to cover detainees' heads were also documented.
- i) Electric shock has also been used in the interrogation of Palestinians during the past four-and-a-half years. Of a group of 234 former detainees interviewed, 6.8 percent reported having been subjected to electric shock during interrogation. According to al-Haq's documentation, instances of the use of electric shock have occurred in Prison Services prisons, military detention facilities, and police stations. With respect to this last location, al-Haq's documentation supports a 1991 report by the Palestine Human Rights Information Center on the use of electric shock in various police stations in the Occupied West Bank. There is also evidence of a similar use of electric shock in Gaza Strip police stations.

Al-Haq's efforts to monitor the treatment of Palestinians in Israeli custody are continuing. We note that this report presents a clear pattern of violations of fundamental human rights guaranteed to persons from the OPTs by the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War 1949 (Fourth Geneva Convention) and to all persons by numerous other international instruments. It is our hope that

our endeavors and those of other local and international human rights and humanitarian organizations will be augmented by action on this issue by State Signatories to the Fourth Geneva Convention pursuant to their treaty obligation to "ensure respect for the ... Convention in all circumstances." Such action, in al-Haq's opinion, is necessitated by the gravity and the persistence of Israel's torture and ill-treatment of Palestinians of the OPTs evidenced by this report.

CHAPTER 1

The Absolute Prohibition Against Torture and Ill-Treatment

The torture and ill-treatment of Palestinian detainees is absolutely prohibited by a wide range of laws binding upon Israel. These include: local laws in force in the OPTs; international humanitarian law applicable to Israel's occupation of the West Bank and Gaza Strip; human rights conventions signed and ratified by Israel which specifically pertain to *any* territory under the jurisdiction of a party to the treaty; and general principles of international law binding on all states.⁵ This chapter reviews the relevant provisions of these laws.

1. Local Law

Torture is illegal under laws in force in the OPTs. Pursuant to rules articulated by customary humanitarian law, local laws in occupied territory are comprised of those laws in force on the eve of the occupation together with legal amendments enacted by the occupant.⁸ In the West Bank and Gaza Strip local laws are comprised respectively of Jordanian law and Palestinian law (the laws which were in force prior to the Israeli occupation in June 1967).

The Jordanian Penal Code of 1960 prohibits the infliction of "any type of violence or hardship" upon a detainee "in order to obtain a confession to a crime or information about it ..." and imposes criminal penalties of "three months to three years" upon those convicted of a violation of this provision.⁹ In cases where "violence" results in "illness or injury," Article 208 raises the applicable penalty to "six months to three years, provided the act in question does not require a heavier penalty."¹⁰ In the Gaza Strip, Article 109 of the Laws of Palestine similarly prohibits torture. These local laws have not been amended by the Israeli military government of the OPTs.

⁵ Israeli laws and procedures relating to the treatment of Palestinian detainees from the OPTs are discussed in Chapter 4.

2. International Humanitarian Law

International humanitarian laws set the minimum standards for the treatment of civilians in occupied territories.¹¹ These laws include instruments recognized as declaratory of customary humanitarian law by the Israeli High Court of Justice, notably, the 1945 Charter of the International Military Tribunal at Nuremberg,¹² Regulations annexed to the 1907 Hague Convention (IV) respecting the laws and customs of war on land, as well as treaties to which Israel is a party such as the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949.¹³

Humanitarian law absolutely prohibits the torture or ill-treatment of civilians in the custody of an occupying power. The fundamental importance of this proscription is reflected in the seriousness of its treatment under the law.

The 1945 Charter of the International Military Tribunal at Nuremberg, defines the "ill-treatment" of civilians from occupied territory in the custody of an occupant as a war crime.¹⁴ Similarly, pursuant to Article 147 of the Fourth Geneva Convention, "torture or inhuman treatment" and "willfully causing great suffering or serious injury to body or health" all constitute grave breaches of the Convention, which are the equivalent of war crimes.¹⁵ Furthermore, persons implicated in the commission of grave breaches are subject to criminal prosecution in the domestic courts of any nation which has enacted enabling legislation pursuant to Article 146 of the Fourth Convention. According to Article 146, all High Contracting Parties:

[s]hall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed ... grave breaches, and shall bring such persons, regardless of their nationality, before its own courts.¹⁶

The classification of torture and ill-treatment as a war crime demonstrates the unambiguous nature of the prohibition. Providing universal jurisdiction and placing a positive duty upon third-party states to seek out and prosecute alleged offenders underscores the international consensus that such violations are so grave that they must be punished.

The Fourth Geneva Convention affords further protection to those in custody by outlawing a range of actions by civilian as well as military agents of an occupant. Article 32 of the Convention provides that:

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering ... of protected persons in their [the Occupant's] hands. This prohibition applies not only to ... torture, [and] corporal punishments ... but also to any other measure of brutality whether applied by civilian or military agents.¹⁷

The scope of treatment defined as illegal is broadened even further by a prohibition against the use of any form of pressure to compel protected persons to supply information to or to cooperate with the occupant. Article 31 of the Convention states:

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.¹⁸

According to the ICRC Commentary to the Convention, this provision:

... covers all cases, whether the pressure is direct or indirect ... [and] prohibits coercion for any purpose or motive ... [including] obtaining information, work or support for an ideological or political idea.¹⁹

As civilians in occupied territories, Palestinians of the West Bank and Gaza Strip are protected persons as defined by these humanitarian laws. Therefore, torture, inhuman treatment, deliberate infliction of grave bodily harm, or serious injury to body or health, as well as actions which cause physical suffering and physical or moral coercion of Palestinians in Israeli custody violate the laws of war.

While Israel does not challenge the binding character of the 1945 Charter of the International Military Tribunal at Nuremberg,²⁰ it does dispute the nature of its obligation under the Fourth Geneva Convention.

Although it is a High Contracting Party to the Geneva Conventions and a military occupant, Israel argues that the Fourth Geneva Convention does not apply *de jure* to its occupation of the West Bank and Gaza Strip.²¹ Simultaneously, the Israeli government states that it respects, *de*

facto, the “humanitarian” provisions of the Fourth Geneva Convention, but has never specified which provisions this includes. Al-Haq is of the view that the Convention, which explicitly pertains to the protection of civilians in times of war and belligerent occupation, is humanitarian in its entirety.

It is important to note that the Israeli government *initially agreed* to apply the Fourth Geneva Convention, *de jure*, to the OPTs. Article 35 of Israeli Military Proclamation Number 3, issued on 7 June 1967 instructed Israeli military courts and their officers to:

apply the provisions of the Geneva Conventions of 13 August 1949 regarding the protection of civilians during war as to all which pertains to legal proceedings. If there should be any contradiction between the provisions of the order and the Geneva Convention, the provisions of the Conventions should apply.²²

Four months later this article was repealed by Israeli Military Order 144 of 22 October 1967; and later completely superseded by Israeli Military Order 378 of 1970, which does not mention the Geneva Conventions.²³

Israel is alone in its present view that the Fourth Geneva Convention does not apply *de jure* to its occupation of the West Bank and Gaza Strip. Virtually every other High Contracting Party to the Geneva Conventions formally acknowledges that the Fourth Geneva Convention applies in law to the OPTs and must be respected in its entirety.²⁴ To provide one example, United Nations Security Council Resolution 681 of December 1990 not only urged Israel to accept the *de jure* application of the convention, but also called “upon the high contracting parties to the Fourth Geneva Convention of 1949 to ensure respect by Israel, the occupying Power, for its obligations under the Convention....”²⁵

Given clear international consensus that the Fourth Geneva Convention applies to Israel’s occupation of the West Bank and Gaza Strip, continued failure by third party states to take effective steps to redress violations such as those documented by this report is particularly troubling.

3. Human Rights Laws and Instruments

The right of every person to be free from torture has long been proclaimed by human rights instruments. The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, set forth a prohibition against torture which is now widely considered to constitute international customary law.²⁶ As customary law, this prohibition is binding on all states, and provides an independent basis for legal redress.²⁷ The Universal Declaration of Human Rights states in article 5:

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

This provision has been incorporated into a number of human rights treaties, including those to which Israel is a party including: 1) the International Covenant on Civil and Political Rights of 1966²⁸ and 2) CAT.⁶

Both of these treaties outlaw torture and ill-treatment in all circumstances.

Adopting the language utilized by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights states in Article 7:

No one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.²⁹

While the Covenant permits states to derogate from certain obligations if a state of emergency is declared, it explicitly states that "no derogation" may be made from this prohibition for any reason.³⁰

⁶ Israeli ratified the CAT on 3 October 1991. Upon ratification it filed two formal reservations. The more notable of these is its decision not to recognize the competence of the United Nations Committee Against Torture (Articles 20 and 22) to consider charges on behalf of or from individuals under its jurisdiction. Its second reservation pertained to its refusal to accept final arbitration by the UN Committee (Article 30) regarding disputes over the interpretation of the Convention between itself and any other state party.

Similarly, the CAT accompanies its ban on torture with the provision that "no exceptional circumstances whatsoever" may exculpate a violation.³¹ The ban articulated by the CAT also places an obligation on states to take effective steps to prevent torture and ill-treatment:³²

Each State Party shall take effective ... measures to prevent acts of torture in any territory under its jurisdiction ...

... Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment ...³³

According to legal commentators, this obligation does not simply pertain to any action by states party. Rather, it requires states "to take steps to achieve reasonable results in the prevention of torture."³⁴

Another principal human rights instrument addressing torture is the United Nations Declaration on the Protection of All Persons From Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1975 (hereafter, Declaration Against Torture).³⁵ The Declaration has been described by international law experts as providing an "authoritative interpretation" of the Charter of the United Nations.³⁶ The UN Charter requires all member states to "take joint and separate action" in furtherance of "universal respect for, and observance of human rights and fundamental freedoms for all ..."³⁷ Pursuant to Article 2 of the Declaration Against Torture:

Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offense to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.³⁸

The Declaration Against Torture also affirms that torture and ill-treatment may not be justified on any grounds. Article 3 states:

No state shall permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. 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 a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Thus human rights instruments and treaties are consistent in their absolute prohibition of torture and ill-treatment.

Before turning to the next section, it must be noted that there is an unsettled legal question as to whether human rights treaties -- as distinct from the laws of war -- apply to situations of international armed conflict. While a full discussion of this issue is beyond the scope of this report, it is important to note that the weight of legal opinion suggests that such treaties are legally binding in situations of military occupation. In its Advisory Opinion on Namibia, the International Court of Justice indicated that international conventions "of a humanitarian character, the non-performance of which may adversely affect the people"³⁹ *should* be applied in situations of occupation. In making this observation, the International Court distinguished the application of human rights conventions from the imposition of bilateral treaties involving active inter-governmental cooperation. The latter, it found, should *not* be applied. This reasoning is echoed in the writings of a number of leading international commentators.⁴⁰

Under the test set forth by the International Court of Justice, both the CAT and the International Covenant on Civil and Political Rights, as international instruments of a "humanitarian" nature, should be applied to the OPTs. Nonetheless, Israel has disputed the application of the CAT as well as the International Covenant on Civil and Political Rights to the West Bank and Gaza Strip. Israel maintains that, in the absence of peace, such international treaties only pertain to those areas where Israeli law is applied. In al-Haq's opinion this contention is incorrect.

Al-Haq takes the position that the protection afforded by human rights treaties to which Israel is a party is applicable to all individuals under Israeli jurisdiction. To provide an example of al-Haq's reasoning, the CAT explicitly states that the obligation to take effective measures to prevent torture and ill-treatment applies to *any* territory under the jurisdiction of a state party to the Convention (Article 2(1)). This qualification is further specified by Article 5 of the Convention which instructs state parties to "take such measures as may be necessary to establish its jurisdiction over the offenses ... [w]hen the alleged offender is a national of that State ... [and] where the alleged offender is present in any territory under its jurisdiction ..."⁴¹ As the Occupying Power, Israel

regularly exercises jurisdiction over the OPTs. Moreover, complaints of torture and ill-treatment by Palestinians in Israeli custody relate to alleged offenders who are either Israeli nationals or present in territory under Israel's jurisdiction. Thus, the CAT should apply to cases such as those documented by this report.

4. General Principles of International Law

In addition to the laws reviewed above, a number of other international instruments ban torture and ill-treatment. These include: the Standard Minimum Rules for the Treatment of Prisoners; the United Nations Code of Conduct for Law Enforcement Officials; the Principles of Medical Ethics Relevant to the Role of Health Personnel in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and numerous others. Regional human rights treaties such as the European Convention for the Protection of Human Rights and Fundamental Freedom of 1950 and the American Convention on Human Rights of 1969 also outlaw torture and ill-treatment.

In fact, the absolute prohibition against torture and ill-treatment has been so widely recognized as to be seen as having the acceptance of the entire international community of states. Because the prohibition against torture and ill-treatment is so universal, it is widely argued that it constitutes a norm of *jus cogens*, or a "peremptory norm of general international law."⁴² The Vienna Convention on the Law of Treaties defines a peremptory norm as:

... a norm accepted and recognized by the international community of states as a whole is a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.⁴³

A peremptory norm is the strongest kind of customary international law. A nation may not claim its own domestic law as an excuse for failing to comply with a peremptory norm.⁴⁴

5. Summary

Applicable local and international laws guarantee Palestinians living under Israeli occupation the right to be free from torture and ill-treatment. Also evident from the legal provisions reviewed above is the fact that this guarantee applies equally to torture and to other forms of cruel, inhuman or degrading treatment or punishment. In either instance, Israel may not claim an exception on domestic law, security, or any other grounds.

CHAPTER 2

Torture and Ill-Treatment: Definition and Case Law

1. Definitions

The CAT states in Article 1:

[t]he term “torture” means 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. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions.

By ratifying the CAT, Israel formally accepted this definition. The Convention is quite explicit regarding two elements of torture the purposes for which it is committed and the circumstances under which official responsibility may be incurred. Thus, certain intentional acts by public official sour people acting in an official capacity may constitute torture when carried out to obtain information or confessions, or to punish, intimidate, or discriminate. The Convention, however, provides only a vague description of what acts constitute “torture”. This chapter examines in depth what acts constitute torture.

Severe pain is difficult to measure. In prohibiting torture, the drafters of the relevant international instruments could not anticipate all forms of mistreatment which might be devised for use against persons in custody. It would be equally impossible, due in part to the number of illegal practices documented worldwide, to incorporate every known form of torture and ill-treatment into the language of each treaty. For these and other reasons, international law relies not only upon the explicit treaty language but also upon the authoritative interpretations rendered by the UN Special Rapporteur on Torture, the Human Rights Committee (constituted pursuant to the Optional Protocol to the International Covenant on Civil and Political Rights), the European Court as well as the

European Commission on Human Rights, the Inter-American Commission on Human Rights, and others.⁷

"Ill-treatment" has also not been explicitly defined by treaty. However, some human rights instruments suggest that torture and ill-treatment fall along a factual continuum with the more egregious cases constituting torture. For example, the Declaration Against Torture states that "torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment."⁴⁵ A comparable statement appears in the CAT. The Convention refers to "other acts of cruel, inhuman or degrading treatment or punishment" as being comprised of those practices "which do not amount to torture."⁴⁶

This understanding of ill-treatment is controversial. Many international commentators argue that attempts to draw factual distinctions between torture and ill-treatment are ultimately meaningless.⁴⁷ As one commentator noted:

any distinctions between torture, inhuman and degrading treatment or punishment are academic in the sense that all of them are equally prohibited by the international instruments.⁴⁸

In addition to having no legal effect, the idea of a factual continuum does not answer the question of what constitutes ill-treatment.

The absence of a codified "objective" definition reflects the fact that the concept of torture -- and that of ill-treatment -- involves factors which are not readily quantifiable. In assessing a complaint, the Human Rights Committee and others tend to consider the combined impact of the various forms of mistreatment suffered by the complainant, rather than simply focusing upon one particular aspect of his or her treatment. Because in many cases a number of different techniques are used against a single

⁷ Rulings pursuant to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Inter-American Convention on Human Rights are considered as a point of reference. Note must be taken of the fact that the American Convention on Human Rights arguably has a more broader definition of the treatment which constitutes torture than that found in the other human rights treaties reviewed here. Nonetheless, cases raised under the American Convention are considered, with particular reference to findings which coincide with the determination of cases raised under the International Covenant on Civil and Political Rights and those reviewed by the United Nations Special Rapporteur.

complainant, such an assessment would appear to permit a more accurate evaluation of the gravity of the complaint. Additional factors, such as the duration and number of times a specific practice was used, are also taken into consideration.

Applying this reasoning, severe pain may result from a combination of practices (such as the methods of sensory deprivation reviewed below in *Ireland v. the United Kingdom*), as well as from one particularly egregious act (such as beatings on the bottom of the feet as noted in the *Greek Case*). This reasoning was adopted by al-Haq in its evaluation of the cases which form the basis for this report.

This chapter reviews the leading opinions with respect to forms of physical brutality, techniques of sensory deprivation, and types of psychological abuse judged to constitute torture and ill-treatment.

2. Physical Brutality

In *Denmark, Norway, Sweden and the Netherlands v. Greece*, better known as the *Greek Case*, the European Commission on Human Rights ruled that Greece violated the prohibition against torture and ill-treatment set forth by the European Convention. In its discussion of the facts, the Commission does not consistently distinguish between torture and ill-treatment. For example, while it identified one form of physical brutality as torture, it described ten other methods as forms of torture and ill-treatment without any further specification. According to the Commission, the practice of *falanga* or *bastinado* is:

a method of torture known for centuries. It is the beating of the feet with a wooden or metal stick or bar which, if skillfully done, breaks no bones, makes no skin lesions, and leaves no permanent and recognizable marks, but causes intense pain and swelling of the feet.⁴⁹

Forms of physical brutality found to amount to *torture and ill-treatment* in the *Greek Case* include: severe beatings of all parts of the body; electric shock; pulling out hair from the head or pubic region; kicking of the male genital organs; dripping water on the head; placing a metal clamp on the head which is then screwed into both sides of the temples; the introduction of a stick into the rectum; burning with

cigarettes; and keeping the hands manacled behind the back for several days, or being kept handcuffed for a prolonged period.⁵⁰

In the view of the Human Rights Committee (which interprets the International Covenant on Civil and Political Rights): "distinctions [between torture and ill-treatment] depend on the kind, purpose and severity of the particular treatment."⁵¹ However, in many cases the Committee has not drawn a factual distinction between torture and ill-treatment but instead has expressed its rulings in terms of whether or not Article 7 of the International Covenant -- which bans both torture and ill-treatment -- was violated. In other instances, it has explicitly determined that torture occurred.

For example, in *Muteba v. Zaire*, the Human Rights Committee noted that the complainant has been subjected to "*various forms of torture*, including beatings [and] electric shock ..." ⁵² (emphasis added). While in *Estrella v. Uruguay* the Committee stated that the complainant "was subjected to severe physical and psychological torture ..." ⁵³ which included: beating with truncheons; the "typist" (squeezing the prisoner's fingers after pieces of wood have been placed between them); hanging a detainee up with hands tied behind the back; stripping the detainee and subjecting him to blows from cords, slaps, punches, and kicks; submerging a detainee's nose and mouth in water until "nearly asphyxiated." ⁵⁴ In yet another case, the Committee identified torture as including the fracturing of the complainant's jaw by beatings. ⁵⁵

According to the United Nations Special Rapporteur on Torture:

In practice, there would appear to be a "grey area" regarding the degree of "pain or suffering" which distinguishes "torture" from "other treatment", particularly when the alleged "severe suffering" is more "mental" than "physical". ⁵⁶

The forms of physical cruelty considered torture by the Special Rapporteur include: beatings -- with or without implements -- which cause wounds, internal bleeding, fractures, or cranial traumatism; beatings on the feet (*falanga*); burns with various implements including cigarettes; electric shock; suspension of the body off the ground; various forms of

suffocation; extraction of nails, teeth, etc; sexual aggression, including rape, and the insertion of objects into the orifices of the body.⁵⁷

The Inter-American Commission on Human Rights (acting pursuant to the American Convention on Human Rights) found similar practices to constitute torture in its 1981 consideration of the treatment of detainees in Colombia. Some of the practices described as torture include: the "submarine" (forcing a person's hooded head into foul water); beatings on different parts of the body with sticks and kicking; application of electric shock; "provocation of suffocation"; ducking in a lake while tied; burning with cigarettes; pricking with needles in different parts of the body; breaking of ribs.⁵⁸

3. Methods of Sensory Deprivation

The most detailed discussion of sensory deprivation is contained in *Ireland v. the United Kingdom*. In that case, the European Commission on Human Rights unanimously held that the following combination of five techniques constituted torture: wall-standing,⁸ hooding, subjecting the detainee to a loud and continuous hissing noise, sleep deprivation, and reduction of diet including deprivation of liquids. In reaching this conclusion, the Commission examined both the overall effect of the combination of these practices against the individual complainants including "the duration of the method used, and its repetition" as well as the purposes for which it was utilized. The Commission noted that:

the systematic application of the techniques for the purpose of inducing a person to give information shows a clear resemblance to those methods of systematic torture which have been known over the ages ... [T]he Commission sees in them a modern system of torture falling into the same category as those systems which have been applied in previous times as a means of obtaining information and confessions.⁵⁹

⁸ Wall-standing is described by the European Commission as "forcing the detainees to remain for periods of some hours in a 'stress position' spread-eagled against the wall, with their fingers put high above the head against the wall, the legs spread apart and the feet back, causing them to stand on their toes with the weight of the body mainly on the fingers."

This decision was appealed to the European Court of Human Rights. The European Court ruled that these techniques constituted ill-treatment but found -- with four judges dissenting -- that they did not amount to torture. The finding of the European Court in this case has been heavily criticized by international legal commentators and is at odds with the rulings of other authoritative bodies.⁶⁰

In the view of the Human Rights Committee, such forms of sensory deprivation as described in the previous case may amount to torture. In *Sandic (Setelich) v. Uruguay*, the Human Rights Committee found that subjecting the complainant to a combination of "plantones" (being forced to stand upright with eyes blindfolded) throughout the day, sleep deprivation (being permitted to sleep for only a few hours at a time), beatings, and food deprivation (in this case insufficient food) over a protracted period constituted torture.⁶¹

Further, both the Inter-American Commission and the UN Special Rapporteur have considered a combination of similar practices to constitute torture. The Inter-American Commission described the following as "forms of torture" in its report on human rights in Colombia: long waits in the sun during the day, blindfolded and tied up for prolonged periods; being prevented from sleeping for up to eight days; no water or food for up to four, seven, and eight days; holding the detainee handcuffed; being tied and blindfolded, permanently at times.⁶²

The United Nations Special Rapporteur pointed out in its 1985 report that:

Total isolation and sensory deprivation ... [if] prolonged, entail serious psychosomatic, intellectual and emotional problems ...⁶³

The Special Rapporteur added that the following are also forms of torture: "prolonged denial of rest, [or] sleep; prolonged denial of food; prolonged denial of sufficient hygiene; and prolonged denial of medical assistance."⁶⁴

4. Forms of Psychological Torture

Many international judicial bodies agree that mental suffering can amount to torture. In the *Greek Case*, the European Commission of Human Rights provided a general definition of psychological torture:

Examples of practices found to constitute psychological torture in the *Greek Case* included: isolation in a cell without food, water, or access to toilets; mock executions; threats to throw a person out of a window; the use of insulting language; rubbing the head with vomit; and being compelled to be present at the torture or inhuman or degrading treatment of relatives or friends.⁶⁶

A similar list can be compiled from cases decided by the Human Rights Committee, which has in various cases recognized as constituting psychological torture: threats of torture or violence to relatives or friends; threats to force the detainee to witness the torture of friends; mock amputations; prolonged incommunicado detention; and inducing a state of hallucination in which the detainee thought he or she could hear or see things which were not real.⁶⁷

The Inter-American Commission acknowledges the following practices as constituting forms of psychological torture: the placing of weapons in the mouth; torture of other persons close to the detainee's cell so that their screams could be heard; extended incommunicado detention; and threats to kill.

The UN Special Rapporteur also recognizes psychological techniques of torture pointing out that the effects of psychological and physical torture cannot be entirely separated:

[a]lmost invariably the effect of torture, by whatever means practiced as physical and psychological ... even when the most refined psychological means are resorted to, there is nearly always the accompanying effect of severe physical pain ...⁶⁸

The Special Rapporteur identified the following as some methods of psychological torture: being kept in constant uncertainty in terms of space or time; threats to kill or torture relatives; total abandonment; simulated executions; and the disappearance of relatives.⁶⁹

5. Summary

Many of the techniques judged to constitute torture and ill-treatment reviewed in this chapter were documented by al-Haq in the course of its field research. A few of the more prominent examples of these include:

- a) beatings on the bottom of the feet, known in the OPTs as *falaka* (ruled a "classic" form of torture by the European Commission in the *Greek Case*); severe beatings all over the body (noted in the *Greek Case* as one form of torture and ill-treatment); beatings with truncheons or other implements (identified with torture by the Human Rights Committee in *Estrella v. Uruguay*, considered torture by the UN Special Rapporteur, and found to be torture by the Inter-American Commission in the Colombia cases); fractures resulting from beatings (judged to constitute torture by the Human Rights Committee in *Saldias v. Uruguay*) and beatings that cause wounds, internal bleeding, and fractures, etc. (considered common forms of physical torture by the United Nations Special Rapporteur);
- b) kicking the male genital organs (classified as a form of torture and ill-treatment in the *Greek Case*);
- c) various forms of asphyxiation or suffocation for limited periods of time (identified with torture by the Human Rights Committee in *Estrella v. Uruguay*, considered torture by the Inter-American Commission and the UN Special Rapporteur);
- d) electric shock and burning with cigarettes (discussed in the *Greek Case* as forms of torture and ill-treatment, and by the Inter-American Commission and the UN Special Rapporteur as constituting torture);
- e) a combination of methods of sensory deprivation consisting of *shabeh* -- which comprises a number of forms of position abuse including wall-standing -- hooding or blindfolding, sleep deprivation, and food deprivation (considered torture by the European Commission, the Human Rights Committee, the Inter-American Commission, and the UN Special Rapporteur and argued to constitute ill-treatment by the European Court);

f) various forms of psychological coercion such as isolation in small enclosed spaces accompanied by food and water deprivation and denial of access to toilets, and other forms of prolonged incommunicado detention (recognized by the European Commission, the Human Rights Committee, and the Inter-American Commission as methods of psychological torture and by the UN Special Rapporteur as forms of physical and mental torture); threats to kill the detainee or to torture and harm relatives (identified with torture by all of the fora reviewed).

The methods listed above are just some of those employed against Palestinian in Israeli custody. This abbreviated review demonstrates that many of the practices defined by international legal authorities considering similar practices in other parts of the world as torture and ill-treatment are used by those acting in a law enforcement capacity in the OPTs. Thus, in al-Haq's view, the techniques systematically used against Palestinians in Israeli custody constitute torture.

CHAPTER 3

Background: Torture Before the Intifada

The aims of this chapter in dealing with torture prior to the Intifada are to consider on the one hand the scope of torture before the establishment of the Landau Commission, which constituted the context for the workings of the Commission and on the other hand to examine the set of techniques which were used by the General Security Service (GSS) before that period.

Evidence on the period prior to the uprising, or Intifada, which began in December 1987 indicates that torture and ill-treatment have been used against Palestinians in Israeli custody during much of the Israeli occupation of the West Bank and Gaza Strip. This evidence includes a 1977 study by the *Sunday Times*; a series of cables sent by the U.S. consulate in East Jerusalem to the U.S. Department of State between 1977 and 1979; the findings of the Landau Commission relating to the treatment of Palestinians under interrogation between 1971 and 1986; and a number of reports by human rights and humanitarian organizations published prior to the uprising. A review of this evidence not only illustrates previous systematic practice of torture and ill-treatment but also provides precedent for virtually all of the techniques currently employed.

In 1977, the *Sunday Times* published a detailed article based on interviews with 44 Palestinian former detainees. The *Sunday Times* reported the torture of Palestinians involving prolonged beating, confinement in small specially constructed cells, electric shock and other methods in at least six different Israeli centers. It further noted its opinion that the facts implicated all four branches of Israel's security services.⁷⁰

The *Sunday Times* concluded:

Torture is organized so methodically that it cannot be dismissed as a handful of "rogue cops" exceeding orders. It is systematic. It appears to be sanctioned at some level as deliberate policy ...⁷¹

U.S. Consulate officials based in Jerusalem expressed much the same opinion in a series of over 40 cables forwarded to the U. S. State Department between 1977 and 1979.⁷² In "Jerusalem 3239," a cable

written in 1978, which was leaked to the press and published in full, then Vice-Consul Alexandra Johnson reported:

... the post has assembled a body of first hand testimony indicating that Israeli torture of Arab prisoners may be a systematic practice.⁷³

According to this cable, the evidence gathered comprised interviews conducted by Ms. Johnson with 29 Palestinians applying for U.S. visas who had previously been arrested by Israel for "security" offenses. An introduction to Ms. Johnson's report, written by then Deputy Principal Officer Donald A. Kruse, supported her conclusion:

... the weight of evidence points to the validity of her general conclusion that physical mistreatment is systematically used on many Arab security suspects interrogated in the West Bank ... The number of casewes and the content of the individual stories reveal a certain consistency.⁷⁴

The U.S. Consulate reported the following practices: prolonged beatings including blows to the genitals; confinement in extremely small, specially constructed cells; hanging by the hands or feet; refrigeration and exposure to extremely hot temperatures; forced sleeplessness and food deprivation; shackling in awkward positions; long periods of standing with arms raised or in physically uncomfortable positions.⁷⁵ Al-Haq's documentation indicates that these practices have also been systematically used to extract information from Palestinians during the uprising.

The torture and ill-treatment of Palestinians in Israeli custody for purposes of intimidation has also been previously documented. Between April 1982 and May 1984, al-Haq and other observers documented a pattern of mistreatment of Palestinians taken into custody pursuant to an Israeli policy known as "population tertur."⁹ As noted in a feature article published by *Newsweek Magazine* in 1983:

⁹ "Tertur" is a Hebrew word stemming from Israeli military slang for practices constituting harassment. This policy was first outlined by the Israeli military authorities in April 1982, in the wake of widespread protest in the West Bank following Israel's dismissal of three prominent West Bank mayors. Detailed information regarding this policy came to light during the trial of seven Israeli soldiers in late 1982 and early 1983, in which a number of high ranking Israeli officials testified including then Israeli Chief of Staff Rafael Eitan and then OC Central Commander Major-General Uri Orr. (The trial was held in Jaffa Military Court between 7 November 1982 and 17 February 1983). Major-

... the most common manifestations of *tertur* are the wholesale roundups that take place whenever West Bank Arabs stage nationalist demonstrations. Israeli border police have been witnessed forcing Arabs to sing the Israeli national anthem, slap each other's faces and crawl and bark like dogs.⁷⁶

In addition to such degrading treatment, the policy of "population *tertur*" was identified with the torture and ill-treatment of Palestinians detained at an Israeli military detention facility opened in the West Bank town of al-Far'a in May 1982. The majority of those detained in al-Far'a between May 1982 and December 1983 were released without ever having been charged or tried; according to al-Haq's documentation few were even questioned. Along with humiliating prison rules, inadequate food and medical care and degrading conditions the following forms of illegal treatment were documented: whipping with electric and or plastic cables, ripping out facial hair, beating, kicking, and prolonged exposure to extreme temperatures.⁷⁷ Noting that the main purpose of al-Far'a has been and continues to be the facilitation of the policy of "population *tertur*,"⁷⁸ al-Haq concluded in 1984 that the overall "...aims of the prison ... [are] to degrade the prisoner and his integrity as a human being and to intimidate both him and the society to which he will return."⁷⁹

Other organizations concerned with human rights which examined practices in al-Far'a also expressed concern. The use of torture during interrogation was documented at the detention center in the period from December 1983 (which marked the introduction of interrogation to al-Far'a) through May of 1984. In a press conference in March 1984, the League for Human and Civil Rights in Israeli charged interrogators with using techniques such as hooding, beating, systematic humiliation, detention of persons in a toilet and in cells flooded with water. The League concluded that detainees were subjected to "torture, brutality and inhuman conditions to break them."⁸⁰

General Orr issued a number of written directives during the spring of 1982 which provide more details on this policy:

Agitators are to be dealt with firmly and to be detained ... Sanctions are imposed in the territories, collective punishment ... I issued an order the parents of rioters are to be punished. There is an order in the territories that if the children are not punishable, the parents are to be punished. To detain them and release them, detain and release.

Quoted from: Shehadeh, *Occupier's Law, Israel and the West Bank* (Washington D.C.: Institute for Palestine Studies, 1988), p. 127.

Examination of reports of the use of torture and ill-treatment in a variety of Israeli prisons during the mid-1980's provides further precedent for the pattern of current practice. In its study, *Torture in the Eighties*, Amnesty International reported the following treatment during the interrogation of Palestinians arrested for security reasons: hooding; handcuffing and enforced standing without movement for many hours for several days; exposure to cold showers or cold air ventilators; deprivation of food, sleep, and toilet and medical facilities; subjection to abuse, insults, and threats against the detainees and the female members of their family; beatings, including blows to the genitals and banging the head against a wall.⁸¹

According to al-Haq's information such practices were common during the interrogation of Palestinians between 1985 and 1987. Other techniques documented during this period include: putting a stick or a pen between each finger of the prisoner's hand and squeezing hard; beatings on the bottom of the feet; holding prisoners in small specially constructed spaces; suspending detainees from ceilings by their arms for periods of approximately ten minutes while beatings were administered; and the use of electric shock.⁸²

Before 1987, the year in which the Landau Commission published its report, al-Haq documented 64 cases of Palestinians who had been subjected to interrogation by the GSS and other Israeli security branches. These affidavits which were taken under oath reveal that the aforementioned techniques had been widely used by the GSS personnel. The findings of the sample are summarized in the following table:

The Technique	No. of Cases	Percentage
(1) Physical abuse		
I) Prolonged periods of beatings and kicks	54	84.4
II) beating by using a tool	19	29.7
III) Pricking with pins	1	1.6
IV) Pulling out body hair	1	1.6
V) Asphyxiation	11	17.2
VI) Electric shock	2	3.1
VII) Extinguishing cigarettes	2	3.1
(2) Position abuse		
I) Al-Shabeh	35	54.7
(3) Food deprivation	23	35.9
(4) Sleep deprivation	2	3.1
(5) Exposure to cold temperature	25	39
(6) Sexual threat	4	6.3

In one of the affidavits which was collected by al-Haq in 1984, a Palestinian student who was arrested by the police on 3 March, 1984, deposed:

... my interrogation began on the second day of my arrest in Hebron Detention Center, by an interrogator called Sami - as the soldier used to call him. He whipped all parts of my body using a belt, with special focus on my face. I was handcuffed and could do nothing but scream as loud as I can. On the third day, he ordered me to lie on the floor and take off my shoes, and he started whipping me on my legs. In addition to that he used a size 6 nail on my legs until they started to bleed. After approximately two hours, he brought a number of pins and started pinning them in my legs, then he whipped me again on the places where the pins were to make them go deeper into my flesh, then I lost consciousness. I was awakened by him pulling the pins out of my legs and they were full of blood. This was repeated for three consecutive days

...

Another Palestinian construction worker who was arrested by soldiers on 7 February 1985 and was taken to al-Far'a Military Detention Center, deposed:

... he handcuffed my hands behind my back and asked me to sit on the chair in the previous position, and he put my legs between the legs of the chair and asked me to go up and down with the sack on my head. I was subjected to beatings all over my body and somebody used to grab my genitals and exert pressure on them until I felt I was going to faint. Then he would remove the sack from my head and ask me to confess because I was made of flesh and blood, not metal. I used to tell him that I have nothing to say, so he would put the sack on my head and repeat the previous procedure. After two hours he ordered the soldier to take me to the cell where I remained till nightfall. Then the soldier came again and took me to another interrogator whom I did not know. The same questions were directed to me and my answer was the same, so the interrogator beat me, threw me to the floor and stepped on my head for an hour. Then I was taken to a room that has a table in it, I remained there till 2 a.m. When the interrogator came back and found that I had removed the sack from my head he started beating me, and the interrogation began one more time. My answer was the same, so he took me to the shower room and ordered me to strip and he forced me to stand under the water for 15 minutes, after which he took me outside to dry myself. After

that I was returned to the bathroom and my hands were tied to the water pipe, where I remained till the morning. One of the interrogators came and removed the handcuffs and ordered me to put my clothes on, and I was returned to the cell. On the third day at 10 a.m. I was taken by one of the interrogators to the interrogation room where the same methods were used again ...

In 1986, another Palestinian, who is 22 years old, from Nablus, and working as a shop-keeper was arrested by soldiers from his home gave the following account:

... the interrogators started hitting me with clubs on my body and Abu-Khanjar sent Marzouq and Abu-Jabal to bring cold and hot water, they emptied the hot water bucket on my head and this was followed by the cold water bucket. Then Abu-Dan brought a metal stick and started hitting, I asked him: "Why do you hit me?" and he answered me: "Because I want you to confess, and if you don't I will keep on hitting you." I was so tired and I was moved to cell No. 4 where I remained till 3 a.m. of the morning of February 9, 1985. Abu-Khanjar took me out of the cell and ordered me to strip, I did. Then he handcuffed my hands behind my back and took me to the shower room where I was forced to stand under cold water for an hour. After that he ordered me to put my clothes on and lie on the floor, I did that, and Abu-Jabal stood on my fingers, Marzouq on my legs and Abu-Khanjar jumped from the table on my back. I was badly hurt, then Marzouq grabbed me from my hair and started hitting my head with the wall and spitting at me ...

Finally, the Landau Commission acknowledged an institutionalized practice involving the use of illegal "physical pressure" against Palestinians under interrogation between 1971 and 1986.¹⁰ The Landau Commission was established in the wake of two widely reported cases, the *Bus 300 Affair* and the *Nafsu Case*. The *Bus 300 Affair*, involved the deaths by beating in custody of two Palestinians from the Gaza Strip arrested by agents of Israel's GSS (the Israeli domestic secret service also known as Shin Bet) after hijacking an Israeli bus in April 1984. In the course of an Israeli investigation into these killings, plans to disrupt the work of the committee involving senior officials of the GSS came to light.

In the *Nafsu Case*, a Circassian officer in the Israeli army, Izzat Nafsu, charged with espionage on behalf of Syria, accused the GSS of

¹⁰ See Chapter 4 for a full discussion of the findings and recommendations of the Landau Commission.

"using illegal means to pressure him into a confession."⁸³ GSS officers denied this under oath, and later were found to have committed perjury. According to the Israeli High Court, which ruled on Nafsu's appeal in May 1987, these illegal means included beating and slapping, sleep deprivation, cold showers, standing for hours in a prison courtyard, and various forms of psychological intimidation, including threats that members of his immediate family would be arrested.⁸⁴

Israeli High Court President Meir Shamgar, who delivered the judgment of the Court in *Nafsu*, noted that the Israeli government prosecutor admitted that "the interrogators of the General Security Service deviated ... in regard to the accumulative weight of their acts, from what is [legally] permissible."⁸⁵ Of these two incidents, the *Nafsu Case* was specifically cited by the Israeli Cabinet as prompting their decision to form a commission of inquiry.⁸⁶

Summary

Far from being new, many of the interrogation techniques documented during the uprising have been the subject of recurring reports for at least a decade. For example, the holding of persons in small specially constructed enclosed spaces (a common practice during the uprising) was documented by U.S. consular officials from 1977 through 1979, established again in 1985 by evidence collected by Amnesty International, and reported again in 1986 and 1987 in cases documented by al-Haq.

Similarly, reports of techniques of sensory deprivation -- hooding, prolonged hand-cuffing while forcing the detainee to maintain physically stressful positions, deprivation of food and sleep -- as well as beatings, subjecting a detainee to cold showers and or "refrigeration," all appear with some regularity in the decade between 1977 and 1987. Moreover, if the facts of the *Nafsu Case* provide a typical example of the sorts of practices found by the Landau Commission to have been institutionalized between 1971 and 1986, then some interrogation techniques common during the uprising have been in use for nearly two decades.

Significantly, the above review also shows clearly that the systematization of torture and ill-treatment is not new and was reported by the *Sunday Times* and the U.S. Consulate in the late 1970s. The fact that a policy providing for the use of torture and ill-treatment could be traced

to an Israeli governmental agency was finally indirectly acknowledged by Israel with the publication of the findings of the Landau Commission which pertained to such a policy promulgated by the GSS.

As shown in Chapter 1, torture and ill-treatment may not be justified on security or any other grounds. Nonetheless, as discussed in the following chapter, to date Israel has attempted to justify the use of torture, and indeed to redefine the range of permitted treatment, to satisfy its perceived security needs.

CHAPTER 4

Israeli Laws and Policies: The Security Rationale

Official Israeli sanction for the torture and ill-treatment of Palestinians under interrogation during the uprising can be traced to the findings and recommendations of the Landau Commission, formally adopted by the Israeli Knesset on 8 November 1987.⁸⁷ The Landau Commission set precedent by redefining torture to suit Israel's purposes and perceived needs. Statements by the Landau Commission itself, and subsequently, by various Israeli officials indicate that practices which clearly constitute torture, pursuant to international standards, are officially condoned and even sanctioned by the Israeli State. The Israeli government, however, however, staunchly insists that such practices do not constitute torture -- which is prohibited by Israeli domestic law -- thereby providing evidence that the Israeli definition of torture does not comply with international norms.

The Landau Commission's recommendations were adopted only one month before the start of the uprising and accompanying massive increase in the number of Palestinians detained by Israel for "security" reasons. Israeli military orders amending local law defined "security" offenses as including actions ranging from reading banned books to threats to the physical integrity of Israeli military and civilian personnel in the OPTs. Since, as noted below, the Landau Commission's recommendations pertain to the interrogation of those arrested for security reasons, the types of activities outlawed on this basis are essential to an understanding of the scope of application of the recommendations.

Also relevant are laws promulgated by the Israeli military government of the OPTs which permit the use of wide arrest and detention powers for "security" reasons. As discussed below, these provisions permit prolonged incommunicado detention "for purposes of interrogation" which only serves to facilitate illegal treatment.

This chapter analyzes these and other Israeli laws and policies which bear directly upon the torture and ill-treatment of Palestinians in Israeli custody. It does not attempt to provide a comprehensive review of the Israeli military justice system and trial procedures in the OPTs. This

system has been examined elsewhere, and while generally relevant, falls outside of the scope of this report.⁸⁸

1. The Landau Commission Report

In May 1987, the Israeli Cabinet established a commission of inquiry headed by former Israeli High Court President Judge Moshe Landau. The mandate of the commission, set forth by the Israeli Cabinet, included examination of the interrogation methods and procedures used by the GSS and the testimony of GSS agents in Israeli courts with respect to these methods. The Cabinet also instructed the Landau Commission to:

... make recommendations and proposals, as it sees fit, also regarding the appropriate methods and procedures concerning these interrogations in the future, while taking into account the unique needs of the struggle against Hostile Terrorist Activity.⁸⁹

The Commission published its report on 30 October 1987, with the exception of a secret appendix.⁹⁰ The following discussion focuses on the findings and recommendations of the Landau Commission pertaining specifically to interrogations conducted by the GSS.

According to the Commission's report, GSS personnel "systematically and continuously" committed perjury from 1971 through 1986 when called upon to testify before Israeli courts with respect to the manner in which they obtained confessions. In the words of the Commission, GSS interrogators "denied using any form of physical pressure on suspects when they testified in court. In short, they simply lied ..."⁹¹

Importantly, the Commission indicated that the majority of cases in which such perjury was committed involved Palestinians from the OPTs.⁹² It further acknowledged that both the use of force in interrogation and perjury were officially sanctioned within the GSS:

... claims concerning sanction to employ pressure, together with the related 'norm' of giving false testimony in court, were proved to us to be correct ...⁹³

The forms of "pressure" employed by the GSS were characterized by the Landau Commission as involving "cases of *criminal assault, blackmail and threats*."⁹⁴ The Commission acknowledged that these interrogation methods were employed pursuant to superior orders taking the form of official guidelines for techniques to be used in GSS interrogations.⁹⁵ Further, the interrogation techniques outlined in these guidelines were such that, pursuant to Israeli evidence law as then interpreted, the information or confession obtained would not have been admissible in court. According to the Landau Commission:

... It will suffice if we say that the pressure employed, *even if it was of a type that was permitted [by the GSS] at the time*, could be expected to be seen by the court as running counter to the principle of free will of the suspect and bring about [the confession's] disqualification.⁹⁶

The Landau Commission does not detail the specific interrogation techniques used pursuant to these guidelines. However, its characterization of these methods, particularly the reference to criminal assault, and the clear implication of coercion, indicate practices which violate customary and conventional international laws.¹¹

In addition, such interrogation techniques would also appear to be prohibited by domestic Israeli laws banning the use of force during interrogation, which are applicable to all Israeli law enforcement officials. Article 277 of the Israeli Penal Law of 1977 prohibits all public officials from "[using] or direct[ing] the use of force or violence" or "threaten[ing] or direct[ing] any person to be threatened with injury to his person or property" in order to extort a confession or information relating to an offense and provides for punishment of up to three years' imprisonment.⁹⁷ Interrogation techniques involving "criminal assault, blackmail and threats" would appear to violate this law.

Despite the serious implications of its findings, the Landau Commission argued that the internal guidelines then used by the GSS were not clearly illegal, adding that individual interrogators could avoid criminal responsibility:

it appears to us that so long as these [interrogation] practices did not deviate from the guidelines that existed in the service at the time (and

¹¹ See Chapters 1 and 2 above for a discussion of the relevant provisions of these laws.

*generally speaking they did not deviate from the guidelines) the interrogator who employed such measures can justly claim ... that he was obeying the orders of his superiors and these orders were not clearly illegal*⁹⁸ (emphasis added).

However, as discussed in Chapter 1 of this report, deference to the orders of superiors cannot constitute an excuse for torture or ill-treatment. This argument illustrates the Landau Commission's understanding of "legality" with respect to the interrogation of "security" suspects. This understanding is further illustrated by its recommendations.

In its recommendations, the Commission outlined a broad interpretation of laws concerning the admission of evidence and acceptable practices. Arguing that "terrorists" have "no moral right to demand that the state ... maintain towards them the conventional civil rights,"⁹⁹ the Landau Commission maintained that:

the great evil of Hostile Terrorist Activity justifies counter-measures such as the need to act in the sense of Sec. 22 [Israeli penal code, defense of necessity], not only when the perpetration of (terrorist) activity is actually imminent, but also when it exists potentially, such that it is liable to occur at any time.¹⁰⁰

The Commission accepts the notion, apparently put forth by the GSS, that effective interrogation of "security" suspects could not be conducted without recourse to force, and stated its view that such interrogation is legal:

effective interrogation of terrorist suspects is impossible without the use of means of pressure. ... Interrogation of this kind permissible under the law as we interpreted it ... and we think that a confession thus obtained is admissible in a criminal trial, under the existing rulings of the [Israeli] Supreme Court.¹⁰¹

Accordingly, the Commission recommended that selected forms of physical and psychological force, euphemistically described as "moderate" physical and psychological pressure, be approved and standardized¹⁰² for use by the GSS. The report contains a general description of these forms:

The means of pressure should principally take the form of non-violent psychological pressure via a vigorous and lengthy interrogation, with the use of stratagems, including acts of deception. However, when

international armed conflict and belligerent occupation), and they permit no derogation, the Israeli authorities cannot claim an exception on security grounds.

The Landau Commission's "moderate physical and psychological pressure" cannot be reconciled with international standards of humanitarian treatment. Nevertheless, the Commission's report attempted to do so through an illegally broad interpretation of these laws, or more simply put: a redefinition of torture and ill-treatment. Further, as shown in the following section, in its attempt to paint physical and psychological "pressure" as consistent with Israeli rules of evidence, the Landau Commission only exacerbated a situation in which there were already very few, if any, legal disincentives for the torture and ill-treatment of "security" suspects.

2. "Security" Legislation: Arrest, Detention and Admission of Evidence

An examination of the laws and regulations pertaining to arrest, detention, and the admission of evidence reveals an almost total absence of safeguards against the mistreatment of Palestinians suspected of "security" violations. For example, legislation promulgated by the Israeli military government of the OPTs provides for:

- a) arrest on suspicion of "security offenses" without a warrant *and* without requiring that the individual be informed of the reasons for his or her arrest when taken into custody (Military Order 378 (1970) Article 78(a);
- b) detention of persons suspected of a "security offense" for a total of 18 days before requiring that the detainee be brought before a judge (Military Order 378 (1970) Article 78(a);
- c) withholding notification of arrest from family and legal representatives⁹ for up to 12 days for the "security of the region or purposes of investigation" (Article 78 D (b)(6), Military Order No. 378, as amended by Military Order No. 1220);

d) prevention of contact with lawyers for up to 90 days, the first 30 days of which are under the authority of the agency conducting the interrogation, again for "security in the region or for the sake of investigation" (Military Order 378, Article 78(C)).

These orders permit due process violations and provide for the incommunicado detention of any Palestinian to whom these laws are applied.¹⁰⁸ This latter point is even clearer when it noted that the ICRC must only be notified of the arrest of Palestinians for security reasons within 12 days; ICRC delegates generally do not have access to detainees until at least 14 days following their arrest.¹⁰⁹ Thus, a detainee may be completely isolated from outside observers for at least two weeks. Such incommunicado detention is internationally recognized as facilitating the use of torture.¹¹⁰

In addition, there is an absence in military court practice of writs of *habeas corpus*, which would enable persons to challenge the legality of their detention. As al-Haq has noted repeatedly, applications for release from custody on this basis are routinely treated as requests for release on bail thus creating a situation in which no *habeas corpus* remedy exists.¹¹¹ Pursuant to these rules Israel may arrest and hold a detainee incommunicado for at least two weeks without ever having to provide a specific legal justification for such action; this outcome clearly enables abuse of arrest and detention powers.

As noted by the Landau Commission:

... the [Israeli High] court has charted a long path to the admissibility of confessions from suspects which are far from maintaining the free will of the suspect.¹¹²

As has long been established by international and local monitors, when a confession is challenged, military court judges usually either rule that the statement was made by the defendant's "free will" despite any admitted coercion, or simply refuse to believe complaints of illegal treatment.¹¹³ This practice renders ineffective the protection nominally granted by the system of "mini-trials," also known as a "trial within a trial," in which the admissibility of a confession is determined.¹¹⁴

The rules of evidence are broadened even further by a 1979 amendment to the Israeli Evidence Ordinance of 1971. Pursuant to this

amendment (also known as the "Tamir" law) written statements or confessions by third parties are admissible even if later recanted, or if the individual is not available, or refuses to testify.¹¹⁵ Finally, as also pointed out by the Landau Commission, pursuant to Article 9 of Israeli Military Order No. 378, military courts in the OPTs are "authorized to deviate from the laws of evidence ... if it deems it just to do so."¹¹⁶ Thus, even if the requirement that incriminatory statements be voluntarily given was interpreted in a more conventional fashion, Israeli military courts could simply choose to circumvent this provision.

3. "Security" Offenses

The Landau Commission approved the use of "moderate" physical and psychological "pressure" during interrogations of persons suspected of being "involved in some manner in hostile terrorist activity, or in *political subversion ... prohibited by law in Israel or the territories*"¹¹⁷ (emphasis added). Pursuant to Israeli military orders amending local law in the OPTs, virtually all forms of political expression, are considered security offenses when made in the absence of a permit from the military authorities. The following are some such examples:

- * gatherings or marches of ten or more people for political purposes or for purposes which may be interpreted as political, applicable "whether or not they were in fact walking and whether or not they had congregated";¹¹⁸
- * displaying flags or emblems;¹¹⁹
- * possession of banned books, or of any publication in the OPTs without a permit;¹²⁰
- * publishing or "printing" of "any publication, advertisement, proclamation, picture or any other document" containing any "political significance"; "printing" is defined as "carving on stone, typing on a typewriter, copying, photographing, or any other manner of representation or of communicating expressions, numbers, symbols ... or any other similar material";¹²¹

- * creation of paintings, decorations, symbols, pictures, maps or “any other manner of representation or communicating expressions” of political significance;¹²²
- * “printing” or publication of cassettes and videos containing any political significance;¹²³
- * membership in, possessing material from, or performing a service or other activities for an “unlawful association” defined as any association deemed unlawful by the military authorities as well as any body of people which aims to overthrow the authorities;¹²⁴
- * verbal and other manifestations of support or sympathy for the activities or aims of any “hostile organization” including the Palestine Liberation Organization or one of its factions.¹²⁵

Such actions are punishable by up to five years’ imprisonment (with respect to possession of publications without a permit) and up to ten years’ imprisonment (with respect to other activities described above). These laws are accompanied by military orders prohibiting more obvious forms of protest, such as stone throwing, tire burning and building of road barricades, all of which are also considered “security offenses”.¹²⁶

As noted by Amnesty International:

... military provisions in force and the way they are applied in practice are often inconsistent with the right to freedom of expression and association. This has led to the imprisonment of prisoners of conscience. For example, Palestinians have been imprisoned for peacefully manifesting their national aspiration in non-violent, symbolic ways, such as raising the Palestinian flag, wearing its colors or making the “V” sign.¹²⁷

These and other provisions provide evidence of a definition of security which extends far beyond military operations, military challenge, or the physical protection of the occupation forces. As noted in a study prepared for al-Haq by Raja Shehadeh on the laws promulgated by the Israeli military authorities during the course of the occupation “security is cited as the excuse. Security is enlarged to become a concept of political control.”¹²⁸ This enlarged concept of national security forms the basis for Israel’s justification of its use of interrogation procedures which violate fundamental international laws and norms.

4. Summary

It is clear from the public portions of the report that the Landau Commission's definition of "legally permissible" interrogation methods contravenes fundamental international principles. As noted by the ICRC in a press release issued in May 1992, use of "moderate measures of physical pressure" itself constitutes "a violation of the relevant provisions of international humanitarian law."¹²⁹ Moreover, as has been repeatedly noted by local and international human rights commentators, the main justifications advanced by the Commission for its approval of such pressure, namely "exceptional circumstances," "necessity," and "security" are explicitly considered and rejected by the applicable international laws.¹³

Moreover, the Commission's failure to clearly rule out the methods found by the European Court to constitute ill-treatment in the *Northern Ireland* cases indicates an illegally broad definition of permissible treatment. This is particularly true, given the condemnation of similar methods as "torture" by the Human Rights Committee charged with interpreting the International Covenant on Civil and Political Rights, to which (unlike the European Convention) Israel is a party.

An examination of methods used in the interrogation of Palestinians before the adoption by the Israeli Knesset of the recommendations of the Landau Commission provides precedent for virtually all current practices. As is shown in the following chapters, the similarity between interrogation methods used in the *Nafsu Case* and current practice is particularly striking. Given this similarity, the most significant impact of the Landau Commission appears to have been upon the attitude with which GSS practices are viewed within the Israeli domestic arena.

This impact was perhaps most evident following the death of Mustafa 'Akkawi, a 35-year-old Palestinian from Occupied East Jerusalem, in the interrogation wing of Hebron Prison in February 1992. Following Mr. 'Akkawi's death, various Israeli officials, including an interrogator involved, publicly acknowledged using physical force on Mr. 'Akkawi sufficient to leave sizeable contusions, as well as keeping his head covered with a hood and his hands tied behind his back while seated in temperatures no higher than zero degrees centigrade for extended periods

¹³ See Chapter 1 for a review of these laws.

of time, isolating him in a small enclosed space approximately one meter by two meters, and failing to ensure that he receive a medical examination by a physician as ordered by an Israeli military court judge. Added to these acknowledgements was an autopsy finding that these forms of torture and ill-treatment caused Mr. 'Akkawi to suffer a fatal heart attack.

The combination of practices utilized in the interrogation of Mr. 'Akkawi were cause for at least as much official concern as was shown in the *Nafsu Case* which prompted the formation of the Landau Commission. Indeed, logically the facts in the 'Akkawi case should have produced an even greater outcry since they led to death of an individual, and involved serious medical negligence and a failure by the GSS to observe an order issued by an Israeli judge. However, an investigation conducted by the Israeli Police Serious Crimes Division found that Mr. 'Akkawi's death was not caused by any criminal act.¹³⁰ The GSS, in the opinion of Police Minister Ronnie Milo "acted as it should, and there were no grounds for the complaints and accusations against it."¹³¹ The head of the GSS went so far as to ask for an apology from members of Israel's Knesset who had raised the issue.

It seems that some of the comments made following the initial publication of the public portions of the Landau Commission Report by former high-ranking GSS official Rafi Malka, may be accurate. Mr. Malka noted that from the Landau Commission "... *the Shin Bet received authorization to act in ways which had been prohibited in the past.*"¹³²

Although the results of the 'Akkawi case and the evidence documented by al-Haq and other local and international human rights organizations suggest the contents of the 1987 guidelines for GSS interrogation supplied in the Landau appendix, it is impossible to state conclusively what they permit since they are classified.

The reason for such secrecy must be questioned. The Landau Commission argued that "the total secrecy necessary for interrogation work, and its strict compartmentalization must be preserved."¹³³ It apparently accepted the rationale, cited in the report and put forth by the GSS, that if interrogation methods were known to those interrogated then they would lose their effectiveness. However, this rationale cannot be reconciled with basic principles of the rule of law. In order to lessen opportunities for abuses, those interrogated must know their rights, as defined by the law. The fundamental requirement that laws be known and

published is essential for creating the conditions in which abuses are less likely to occur.¹⁴

According to press reports, the classified guidelines were made available to Israeli cabinet members when the report was issued in 1987.¹³⁴ Speaking anonymously to the Israeli press, one cabinet member noted a possible additional reason for keeping the guidelines secret:

If the secret section of the Landau report is quoted accurately, it will be bad, and if it is misquoted ... it will be worse.¹³⁵

Whatever the precise content of the guidelines (and their possible impact on public opinion), it is clear that by providing for total secrecy and maintaining the “compartmentalization” of the interrogation process, the Landau Commission’s recommendations contributed to maintaining the very circumstances in which torture and ill-treatment are most likely to occur. It is also readily apparent that, particularly under such circumstances, the claim to have “only” applied “moderate physical pressure,” can be used as a screen for interrogation methods which amount to torture and ill-treatment.

The Israeli High Court of Justice is currently considering the legality of the guidelines for interrogation used by the GSS pursuant to a suit brought by the Israeli Public Committee Against Torture in Israel. At the time of this writing, this case was still pending. If the Israeli High Court clearly repudiates the use of psychological and physical “pressure” during interrogation, this will represent a first step towards improvement. However, the long history of the use of specific techniques of torture and ill-treatment against Palestinian detainees demonstrates the urgent need to, at the very least, follow any such repudiation with provisions requiring that GSS guidelines be open to public scrutiny so as to ensure that fundamental international standards are respected. Furthermore, in al-Haq’s view, a system which provides for prompt judicial procedures

¹⁴ The Commission’s claim of providing safeguards through systems of oversight must be evaluated in this context. A number of the Commission’s recommendations, including a recommendation that the Israeli State Comptroller exercise its mandate to supervise the activities of the GSS, have not been implemented. In al-Haq’s opinion even if this recommendation had been implemented, the Commission’s endorsement of “total secrecy” makes impossible the series of checks necessary to provide any real safeguards, even if the goal was simply to enforce the interrogation methods set forth by the Commission.

against those acting in an officially capacity implicated in the use of torture and ill-treatment, and for the imposition of appropriate penalties against those found guilty of such use is essential to deter future illegal treatment.

CHAPTER 5

Survey on Torture and Ill-Treatment: Selected Findings

Based on the findings of its random survey, al-Haq estimates that 85 percent of Palestinians taken into Israeli custody during the first four years of the uprising were subjected to torture or ill-treatment.¹⁵ Of a total 474 former detainees interviewed, 72 (approximately 15 percent) were not mistreated.

Further, the results of al-Haq's field research strongly indicate that, during the uprising, Palestinian detainees have been subjected to torture and ill-treatment without regard to age, district of residence, or other similar considerations. Similarly, the place of detention appears to have little or no bearing on the treatment suffered by those taken into custody. The only element which appears to have an impact is whether or not a detainee was interrogated or questioned, and as discussed below, this does not appear to be a solely determining factor. The following analysis provides a detailed examination of all of these variables.

1. Analysis of Case Pool

The findings examined below relate to the district of residence, age, place of detention and type of detention of those interviewed in the course of the random survey. These and other factors concerning the entire case pool are discussed elsewhere.¹⁶

a) Place of Residence

An examination of the cases documented in the course of the random survey reveals that the district of residence of those tortured was

¹⁵ In addition to the random survey, al-Haq conducted a focused investigation into the treatment of those interrogated. In that section of the study, 234 persons known to have been interrogated were interviewed. The findings of that part of the study are reviewed in Chapter 7.

¹⁶ See the Introduction to this Report, Chapter 6 and Chapter 7.

distributed throughout the regions canvased. Of the 474 Palestinians interviewed, 237 were residents of the West Bank and 237 were from the Gaza Strip.

Numbers and geographic diversity are indicated in the following charts:

West Bank Residence by Geographic District

District	Total Interviewed	Tortured or Ill-Treated
Jenin	43	37
Toulkarem	27	23
Nablus	41	36
Ramallah	49	43
Jerusalem	17	16
Bethlehem	29	21
Hebron	31	23
Total	237	199

Gaza Strip Residence by Geographic District

District	Total Interviewed	Tortured or Ill-Treated
Gaza	65	57
Khan Younes	44	31
Deir-al-Balah	70	63
Rafah	58	52
Total	237	203

b) Age

Similarly, the age of the detainee does not appear to be a determining factor. Those interviewed ranged from under 16 to over 60 years old. However, as shown by the following graph, the majority of those taken into custody and subjected to illegal treatment were between 18 and 35 years of age:

Age	Total Interviewed	Tortured or Ill-Treated
Under 17	72	61
18-24	238	212
25-35	141	112
36-59	21	15
Over 60	2	2
Total	474	402

c) Place of Detention

Notably, any examination of the various sites in which detainees were held reveals that torture and ill-treatment occurred in a range of types of detention facilities including Israeli Prison Services prison, Israeli military detention centers, Israeli police jails and stations as well as temporary holding facilities in Israeli military compounds in the OPTs.¹⁷

Type of Facility	No. of Detainees Tortured or Ill-Treated	No. of Detainees Not Mistreated
Prisons	97	14
Military Detention Centers	174	54
Police Jails / Stations	44	1
Other Temporary Holding Sites	87	3
Total	402	72

d) Type of Detention

The only variable which appears to affect the frequency of ill-treatment is whether or not the detainee was subjected to the interrogation process or questioned at some stage while in custody. Those who were either formally interrogated or, more informally, subjected to questioning, reported practices amounting to torture and ill-treatment in overwhelming numbers. Preventative and administrative¹⁸ detainees held without ever being questioned also reported illegal treatment in considerable numbers, but with less overall frequency than those interrogated:

¹⁷ Israeli military camps or outposts which often also house offices of the Civil Administration of the Israeli military government of the OPTs.

¹⁸ Administrative detention is detention without charge or trial pursuant to Israel military order.

Type of Detention

	Tortured or Ill-Treated	Not Mistreated	Total
Interrogation/Questioning	287	17	304
Preventative	76	23	99
Administrative	39	32	71
Total	402	72	474

As Illustrated by this table, Palestinians held without charge on administrative detention orders were less likely to be subjected to torture or ill-treatment if they were not interrogated in the initial period of detention. With respect to this finding, not must be taken of persistent reports of illegal treatment in stages of the detention process which fell outside the scope of the current study. The majority of administrative detainees are held in Ansar III (Ketziot), the military detention center in the Negev desert. As has been extensively documented, conditions of detention at Ansar III are extremely harsh, and a number of well-documented cases of cruel, inhuman or degrading punishments have been reported.¹³⁶ Since, according to international human rights laws, harsh prison conditions as well as the infliction of severe pain (at any time during incarceration) for purposes of punishment or intimidation can amount to torture,¹³⁷ it must be emphasized that the finding of less likelihood of torture pertains only to the initial period of detention.

2. Summary

The case pool comprises Palestinians from throughout the OPTs of different ages who were held in different types of definition facilities for different purposes. Illegal treatment was reported in significant numbers throughout all of these categories. This provides evidence of a system-wide practice which cannot be explained as "rogue" action on the part of individual members of Israeli law enforcement and security apparatus. This is particularly true given the overwhelming likelihood, indicated by the documentation, that persons interrogated will be subject to torture or ill-treatment. Although the percentages of those subjected to illegal

treatment outside of interrogation are not as high, the frequency with which such incidents were reported is also inconsistent with an explanation based upon the aberrant behavior of a few.

Further evidence of systematic torture and ill-treatment of Palestinian detainees emerges from an examination of the specific types of illegal treatment used against Palestinians during their initial period in detention and while under interrogation.

CHAPTER 6

Torture or Ill-Treatment in the Initial Period of Detention

Of the total pool of 708 former detainees interviewed by al-Haq (474 detained plus 234 interrogated), 636 persons reported practices amounting to torture or ill-treatment pursuant to international definitions. In 303 of these cases, such illegal treatment occurred during the initial period of detention; in 333 cases, torture occurred during interrogation; in 193 cases, detainees were mistreated during both periods. This chapter examines the first of these categories and presents evidence of the torture and ill-treatment of Palestinian detainees at the time of arrest, while being transported to places of detention and upon entering to those facilities.

The most common illegal practice related by this group of 303 former detainees entailed different forms of physical brutality, primarily consisting of punches, kicks, and blows with truncheons, rifle-butts and helmets (81 percent). In some instances, such beatings were accompanied by various other forms of physical cruelty (including burning with cigarettes and spraying mace in the faces of persons following their arrest). Other practices reported include forcing a detainee to remain in a physically painful position for an extended period of time, often while hooded or blindfolded (37.3 percent); sleep deprivation (22.1 percent); and food deprivation (15.2 percent).

The documentation reveals two general phenomena. The first, and perhaps the most prevalent, involves the use of force as a punitive measure, particularly in the period immediately following arrest and while being transported to detention facilities. The second phenomenon includes subjecting a detainee to various forms of illegal treatment immediately prior to interrogation or otherwise in a manner which seems to serve as part of a "softening-up" process before initial questioning. It must be noted that these patterns are quite common; according to al-Haq's random survey approximately 55 percent (262 of the 474 persons interviewed) of Palestinians arrested between November 1987 and December 1991 were subjected to illegal treatment during their initial period in detention.

1. Illegal Treatment for Purposes of Intimidation and Punishment

A total of 246 former detainees reported being subjected to various forms of beatings. The use of such force against Palestinian detainees can be traced in part to measures adopted by the Israeli military authorities early in the uprising, specifically, to be widely reported "beatings policy." This policy is attributed to then Israeli Defense Minister Yitzhak Rabin who announced in January 1988 that "force, might and beatings" would be used to quell unrest in the OPTs.¹³⁸ This policy entailed widespread punitive beatings, generally with wooden truncheons, and the deliberate breaking of bones. Such punitive force was used against Palestinians apprehended in the area of a demonstration or who found themselves in hands of the Israeli military authorities under other circumstances.¹³⁹

Although the beatings policy was officially rescinded in February 1988, evidence provided by soldiers serving in the OPTs shows that such beatings continued pursuant to oral instructions issued by Israeli army commanders. Testimony at the two separate trials of members of the Giv'ati Brigade charged with the beating deaths of two Palestinians in Israeli army custody provides perhaps the most well-known examples. In the first trial (which related to the beating death of a 42-year-old Palestinian man, Hani al-Shami, in August 1988) the Israeli military court found that:

... the order given to [the defendants] was unequivocal that in every case in which they arrested a suspect for disturbing the peace, they must beat him ... [with] hard blows and in order to deter him from repeating similar behavior in the future.¹⁴⁰

In September 1989, the Israeli military Chief of the General Staff Lt. General Dan Shomron, issued a letter to Israeli army commanders which indicated official knowledge of the continued widespread use of such illegal force.¹⁴¹ This letter reminded army commanders that force should not be used "after a suspect has been arrested and is not resisting," and noted that blows to "the head or other sensitive body areas" should be avoided and that "under no circumstances is force to be used intentionally to inflict injuries, such as breaking of bones."¹⁴² Nonetheless, the documentation indicates that soldiers and other Israeli personnel serving in

a law enforcement capacity in the OPTs continued to use punitive force against Palestinians taken into Israeli custody during 1990 and 1991.

Al-Haq's investigation found a clear pattern of blows to sensitive body areas and other brutality upon arrest, after the individual was handcuffed and in the control of the arresting official. For example, on 22 August 1991, Khaled 'Umar al-Qadi, a 20-year-old factory worker from the town of el-Bireh in the Ramallah district of the West Bank, was arrested in his home by a group of three plainclothes Israeli officials accompanied by six soldiers. Mr. al-Qadi described his treatment upon being taken into custody in a sworn statement taken by al-Haq:

[a] soldier ... handcuffed me ... [and] another blindfolded me with a piece of cloth ... [then] I felt a strong blow to my genitals and someone grabbed my hair and my shoulder and threw me into a vehicle.... As soon as we started moving, the soldiers, who were speaking only in Hebrew, started hitting me on my head and all over my body with a hard instrument. My head hurt badly ... [I later found out] that it was bleeding.¹⁴³

The soldiers continued to "punch and kick" Mr. al-Qadi all over his body during the drive to Ramallah Police Station.¹⁴⁴

Similar cases have occurred in the Gaza Strip. On 5 May 1991, Maher Fayeh Rajab Sukkar, a 21-year-old mechanic from the al-Shaja'iyya neighborhood of Gaza City was arrested in his home by a group of eight Israeli soldiers accompanied by one individual in civilian dress. According to his sworn statement taken by al-Haq "... Someone tied a blindfold over my eyes and cuffed my hands behind my back. Then several people started hitting me. I was receiving punches and kicks from every direction. I fell to the ground...."¹⁴⁵ Mr Sukkar was then picked up and thrown into a military vehicle. He was transported to Gaza Police Station; the beatings continued while he was in transit.¹⁴⁶

This kind of use of illegal force is also employed by border guards and other Israeli forces acting in a law enforcement capacity. On 3 March 1991, As'ad Muhammad As'ad Steiti, a 19-year-old worker from Jenin Refugee Camp, was taken from his home by a large group of border guards. According to his sworn statement "they handcuffed me ... and put me in a vehicle and drove off. Then they started hitting and kicking me. Suddenly, the vehicle stopped ... [and] they began to hit me with their truncheons and the ends of their rifles all over my body." This

beating continued for approximately 10 minutes before they resumed the drive to Jenin prison.¹⁴⁷

2. Illegal Treatment Resulting in Serious Injury

In some cases, beatings resulted in fractures or other serious injuries. The following four examples of such cases pertain to individuals of different ages and professions who were arrested in different geographic areas of the OPTs and subjected to severe beatings in Israeli custody during 1991 and 1990:

- a) On 1 September at approximately 3 p.m. in the afternoon, three Israeli policemen arrested Mr. Nayef 'Abd-al-Rahim' 'Abd-al-Rahman Abu-'Eisha, a 40-year-old journalist from the village of Rujib in the Nablus District of the West Bank while he was driving his car in Nablus City. As a result of beatings following his arrest, Mr. Abu-'Eisha's left shoulder was broken, and he sustained extensive contusions, and suffered internal bleeding.¹⁴⁸ The beatings took place both on the street and in Nablus Police Station, after Mr. Abu-'Eisha had been handcuffed and was in the control of the arresting officers. Mr. 'Abu-'Eisha described the beatings in a sworn statement taken by al-Haq, "one of [the three policemen] brought the handcuffs and tied my hands behind my back; then they started hitting and kicking me, this continued for approximately 15 minutes ..." ¹⁴⁹ Following this beating Mr. Abu-'Eisha was transferred to the Nablus Police Station. Upon arrival at the police station, Mr. Abu-'Eisha was taken to a room on the first floor; there the beatings resumed:

[t]wo of them used clubs and began hitting me hard on my arms and back. The third was kicking me. I fell to the ground, and they continued beating me, and particularly kicking me at my waist ...
During this time a number of policemen came in to watch.¹⁵⁰

Mr. Abu-'Eisha remained in police custody for the next two days. During his detention he was briefly questioned twice, but was not subjected to further physical abuse. Although he was provided with first aid during this period, he was not taken to a hospital until Wednesday, 4

September 1991. He was released from custody upon his transfer to Rafidiya Hospital on 4 September without being charged with any offense.

- b) On 15 December 1990, at approximately 3 a.m., 10 Israeli soldiers, accompanied by a member of Israel's GSS who called himself "Abu-Fahed," arrested Mr. Rafiq Qasem Muhammad Abu-Dan, a 25-year-old electrician in his home in the Khan Younes Refugee Camp in the Gaza Strip. Mr. Abu-Dan was beaten immediately following his arrest and later upon arrival at the Ansar IV (Khan Younes) Military Detention Center. As a result of these beatings, the little finger on his right hand was broken and he suffered multiple contusions. Mr. Abu-Dan described his treatment in a sworn statement taken by al-Haq:

... a soldier blindfolded me, then both of my arms were grabbed and I was forced to walk for approximately 10 minutes during which I was repeatedly punched in the face and on the back ... then they dumped me in a vehicle ... [and] took me to the Army Center in Khan Younes. There, for nearly two [I] ... was periodically beaten on my hands and all parts of my body with what felt like a wooden truncheon.

The following day, Mr. Abu-Dan was transferred to Ansar III (Ketziot) Military Detention Center in the Negev Desert, where he was detained without charge for three months, pursuant to an administrative detention order. He was not interrogated.

- c) On 21 August 1990 at approximately 11:30 a.m., a group of border guards arrested and then brutally beat Khaled Muhammad Ahmad Abu-Rabi', a 22-year-old unemployed man from al-Fawwar Refugee Camp in the Hebron District of the West Bank. Mr. Abu-Rabi' was arrested as he was walking down a street in the refugee camp. Following his arrest, he was subjected to prolonged and repeated beatings with wooden truncheons. As a result, both his right arm and his right leg were broken, the nails on both hands were smashed, and he suffered a concussion, numerous cuts on his head and face, and a number of contusions on various parts of his body. The beatings took place in al-Fawwar Refugee Camp in front of several camp residents. The following description of part of the beatings is excerpted from a sworn statement taken from Mr. Abu-Rabi':

... the border guards took turns in beating me with their truncheons ... I started bleeding from my head, face and various other parts of my body.... [one of the border guards] ordered me to stretch my arms out in front of me ... close to each other ... then he started hitting me with the club on my fingers until my fingernails cracked and started bleeding. I was screaming ... then [one of them] hit me with the club on the back of my head and neck ... [then] he continued to beat me with his club on my right leg very brutally and changed clubs when the one he was beating me with broke.¹⁵¹

Mr. Abu-Rabi' fainted while being transported out of the camp by the border guards. Later that day Mr. Abu-Rabi', who was still unconscious, was admitted to al-Husein Hospital in Hebron. He was then transferred by the Israeli police to Sarafand Hospital where he was admitted to the intensive care unit. According to medical records, he was suffering from a concussion, his right arm and right leg were broken, and he showed signs of multiple trauma.¹⁵² On 25 August 1990, he was transferred from Sarafand Hospital to al-Maqased Hospital in Jerusalem. According to the attending physician, Dr. Yasser al-Ramli, in addition to the serious physical injuries, Mr. Abu-Rabi' displayed various behavioral changes including complete incontinence.¹⁵³ Mr. Abu-Rabi' estimates that he spent a total of five hours in Israeli custody. He was not charged with any offence.

- d) On 27 January 1990 at approximately 12.30 a.m., a group of about 20 armed Israeli military personnel, accompanied by an Israeli GSS agent going by the name of "Captain Maher," arrested Mahmoud 'Abd-al-'Aziz Uthman Zeid, a 29-year-old unemployed resident of al-Jalazon Refugee Camp in Ramallah District of the West Bank. Mr. Zeid was beaten by soldiers on the way to Ramallah Prison and by a prison guard upon arrival at the prison. The following excerpt from his sworn statement describes both of these beatings:

I was put in a vehicle ... I was blindfolded and my hands were cuffed with plastic handcuffs. On the road I was beaten with a hard object on my head, chest and stomach ... [When I arrived at] Ramallah Prison, I was subjected to harsh beatings by a guard, whom I later learned was called "Doudi." He made me sit on the ground which was muddy while I was still handcuffed and blindfolded. Then he beat me with a club on various parts of my body, and kicked me very hard in the nose.

I fainted ... When I regained consciousness I found myself lying in a tent with one of the detainees besides me trying to stop the bleeding from my nose. I felt pain in all parts of my body, especially in one of the fingers of my right hand which ... appeared to be broken.¹⁵⁴

Mr. Zeid was left in the tents in Ramallah Prison until 1 February 1990 without any form of medical treatment by prison authorities. On 1 February, he was moved to a cell inside the prison. At that point Israeli medical personnel at the prison examined him, bandaged his hand and treated his nose with iodine. Mr. Zeid was interrogated for 45 days.¹⁹ It was not until he was given a second physical examination upon his subsequent admittance to Bitouniyya Military Detention Center (approximately two months after the initial beatings), that he learned from a prison doctor that his nose and his finger had been broken.¹⁵⁵ After being detained for five months, Mr. Zeid was tried and convicted of membership in an illegal organization. He was sentenced to three months' additional imprisonment and was released from detention on 26 August 1990.

As demonstrated by the preceding cases, brutal force is used against (1) persons detained for a short period of time only to be released without charges; (2) persons detained without charge or trial pursuant to administrative detention procedures; and (3) persons detained for interrogation who are later charged and tried.

Moreover, in each of the examples reviewed above, the individual was already under the control of the arresting officials before the beatings took place. Under such circumstances, it cannot be argued that force was necessary to effect an arrest. Furthermore, even in circumstances where an individual resists arrest, the types of force depicted in the examples cited above have no legal justification.

These cases are not isolated incidents. The number of cases in which physical force was used during the initial period of detention indicates -- at the very least -- a failure to enforce fundamental international norms as well as Israel's own regulations as illustrated by General Shamron's letter. In these instances, torture and ill-treatment clearly appear to be used in order to intimidate and punish those in custody.

¹⁹ Mr. Zeid was subjected to further illegal treatment immediately prior to his interrogation and while being questioned. See Part Two of this chapter for further discussion of this case.

3. Other Forms of Physical Cruelty and Degrading Treatment

A total of 20 detainees reported that in addition to being beaten upon arrest, they were subjected to other forms of physical cruelty such as being burned with lit cigarettes, having mace sprayed into their faces, being exposed to extreme temperatures while inadequately dressed, and a range of other illegal treatment. In the majority of these cases, such mistreatment occurred while detainees were in Israeli army custody either while being transported to temporary detention facilities run by the Israeli military or upon arrival at these facilities. These cases illustrate what appears to be arbitrary brutality as well as examples in which persons appeared to have been singled out for mistreatment because prior to their arrest they had been wanted for questioning by the Israeli authorities.

4. Case Study: Toulkarem Military Compound

The cases cited below are examples of physical abuse both in transit and while captive in the Toulkarem Military Compound.

On 1 December 1990, at approximately 11.45 p.m., Ahmad Kamal 'Abd-al-Ghani Ghurab, a 25-year-old worker from Toulkarem Refugee Camp, was arrested in his home by Israeli soldiers. He was taken into custody wearing only an undershirt and sweatpants, and was not permitted to put on a jacket or shoes despite cold winter temperatures. Immediately following his arrest, he reported that "the soldiers started hitting me with their rifle-butts and kicking me. Then one of the soldiers banged my head against the metal door to my house."¹⁵⁶ The beatings continued in Toulkarem Military Compound. Mr. Ghurab, together with a number of other Palestinians detainees, were forced to sit outside in a yard handcuffed and blindfolded while Israeli soldiers hit them with the butts of their rifles and with their helmets. These beatings continued intermittently from approximately 12.00 a.m. until 4.00 a.m.¹⁵⁷ For most of this period, Mr. Ghurab remained sitting outside on the ground, which was cold and wet. At one point he was taken inside a tent. According to his sworn statement:

the soldiers shoved me into a tent, and forced me to lie on my stomach. Then they started stamping on my body, while I was shivering from cold ... [later] I asked one of the soldiers if I could go to the toilet, instead [of answering] the soldier took out my penis and put his lit cigarette on it. I started screaming ...¹⁵⁸

In addition to the cigarette burn on his genitals, Mr. Ghurab sustained multiple contusions and suffered bleeding from his nose and mouth as a result of the beatings. He was later charged and sentenced and served a total of four months in prison.

Although there appears to be no direct correlation between such illegal treatment and the seriousness of the charge (as illustrated by length of detention), in some cases individuals appear to have been singled out for mistreatment due to a combination of factors, including failure to report to the Israeli authorities upon request. The following examples illustrate such treatment of two such "wanted" Palestinians from Toulkarem Refugee Camp who were arrested within a 10-day period. Both had mace sprayed in their faces following arrest, and were subjected to prolonged cruel and degrading treatment at Toulkarem Military Compound by members of the Israeli military Golani Brigade.

- a) The first of these cases occurred from 16 through 20 April 1990. At approximately 8.30 p.m. on 16 April, Muhammad Husein Muhammad Darsiyya, a 36-year-old worker from Toulkarem Refugee Camp, was arrested in the refugee camp along with two other persons wanted by the Israeli authorities. Mr. Darsiyya was held for four days at the Toulkarem Military Compound; thereafter he was transferred to Ansar III where he was detained for six months pursuant to an administrative detention order. In a sworn statement taken by al-Haq, Mr. Darsiyya described his treatment from the time of his arrest through the end of his detention in the military compound:

... [The soldiers] tied our hands behind our backs with a piece of cloth and blindfolded us. Then they ... started hitting me with their clubs and rifle-butts; I was also punched and kicked with their boots on all parts of my body. The soldiers, I could not tell how many, continued to beat me and the others for approximately half an hour ... then they took us out of the house. ... As we reached the vehicle, the soldiers

sprayed mace in my face, then threw me onto the floor of the vehicle
...¹⁵⁹

Upon arrival at Toulkarem Military Compound, Mr. Darsiyya was put into the barracks used for temporary detention. Shortly thereafter he was called outside by a soldier known as "Kolan":

[Kolan] called me out and said, "Darsiyya, you threatened the Golani Brigade," and hit me with a club on my head, back, shoulders and legs. Then he played a tape on a recorder ... of a person speaking in Hebrew, warning the Golani Brigade not to enter [Toulkarem Refugee] camp. "Kolan" accused me of making the tape, and then started beating me again. Several other soldiers on duty in the compound and some border guards joined in.¹⁶⁰

During the following four days, Mr. Darsiyya was repeatedly beaten by groups of soldiers. These beatings took place both inside and outside of the barracks, and were often accompanied by various forms of inhuman treatment. For example on the second day of his detention:

a soldier beat me ... for refusing to curse Abu-'Ammar²⁰ and say "Abu-'Ammar is a fucker"... [later the same day] the soldiers ordered me to kiss the feet of a detainee called Naser Radwan, who was mentally retarded. I refused, so the soldiers kicked me and hit me with their clubs at intervals all through the night.¹⁶¹

The following day, Mr. Darsiyya was punched and kicked on all parts of his body for refusing an order to sing, while during his last day at Toulkarem Military Compound:

"Kolan" forced all of the approximately 65 detainees in the barracks, to chant "Darsiyya is a fucker" at intervals during the day.

Following these four days, Mr. Darsiyya was transferred to al-Far'a Military Detention Center then on to Ansar III where he remained under administrative detention for six months., Mr. Darsiyya was not interrogated at any time during his detention.

²⁰ The name by which Yasser 'Arafat, chairman of the Palestinian Liberation Organization, is commonly known in the Palestinian community.

- b) Ten days later, on 24 April 1990 at approximately 8:00 am, Majed Ahmad Mahmoud 'Isa, a 20-year-old worker from Toulkarem Refugee Camp was arrested by a group of six soldiers. According to his sworn statement:

I was caught by six soldiers while I was engaged in throwing stones at a [second] army patrol all of the six soldiers started beating me with the butts of their rifles, punching me and kicking me. Then they sprayed mace in my face ... they tied my hands behind my back with a piece of cloth and threw me to the ground next to my house and went back to hitting me with their rifles on my head, back, and abdomen. As they were beating me ... they were stoned by the residents, the beating became more violent each time a stone was thrown at them. They were still hitting me while they dragged me to their military vehicle ... In the vehicle one of the soldiers blindfolded me, then kicked me in the abdomen.¹⁶²

Once at Toulkarem Military Compound, the soldiers learned that Mr. 'Isa was wanted for questioning by the authorities:

... the soldiers beat me harshly as they were telling each other that I was a "Bingo."²¹ One of the soldiers removed the blindfold and put it around my neck and dragged me along the ground by it while he was imitating the 'baaing' of a sheep. Then they ... started kicking my head and face and ordered me to repeat "I am Golani's fucker," while they were beating me.¹⁶³

As a result of these and later beatings, Mr. 'Isa sustained extensive contusions. The beatings on his head and face apparently exacerbated a problem with his sinuses, which had been operated upon shortly before his arrest. Mr. 'Isa complained of pain in the area of his nose and mouth to a paramedic in Toulkarem Military Compound and was given "Acamol" (an aspirin substitute). Mr. 'Isa was sentenced to one year actual imprisonment and two years' suspended sentence.

Such illegal treatment has not been restricted to Toulkarem Military Compound. Detainees in other parts of the OPTs, particularly in the Gaza

²¹ The slang term used by many Israeli soldiers, signifying that an individual is wanted for questioning.

Strip, have reported similar types of mistreatment.²² As is evident from the cases cited above detainees were subjected to beatings and other forms of physical cruelty while completely under the control of Israeli soldiers and others acting in a law enforcement capacity for purposes of punishment and intimidation.

5. Position Abuse and Food and Sleep Deprivation as a Punitive Measure

Although denial of food and sleep coupled with forcing a person to assume a fixed physical position and maintain it for extended periods of time are more common forms of mistreatment in the period immediately preceding interrogation (discussed in the following section) in order to “soften up” or intimidate, such measures have also been used for punitive purposes. For example, on 7 February 1991, Sakeb Mousa ‘Abd-al-Latif al-Sharif, a 25-year-old construction worker from al-Breij Refugee Camp in the Gaza Strip, was arrested for leaving his home during the 24-hour curfew imposed on the entire OPTs for the duration of the Gulf War. For the first three days of his detention in an Israeli military camp in al-Breij, Mr. al-Sharif was forced to sit upright on the ground, which he reported was wet, inside a tent into which rain was leaking, blindfolded with his hands cuffed behind his back.¹⁶⁴ During this entire period, soldiers prevented him from sleeping and denied him access to a toilet. Mr. al-Sharif was also not given anything to eat for 72 hours.¹⁶⁵

The following three examples illustrate the use of such punitive measures in 1990 and 1989 in the Gaza Strip and different parts of the West Bank:

- a) On 23 August 1990, Samih Ibrahim Hassan Abu-Ghali, a 36-year-old Palestinian was arrested in his home in Rafah Refugee Camp in

²² In one such example, after being handcuffed, the detainee was taken to a military vehicle by a soldier who used the command for movement locally used with donkeys. Then, in addition to other abuses, the detainee was burned on the bottom of his chin with plastic handcuffs that had been heated (al-Haq Affidavit No. 3349). In another example, a detainee was subjected to brutal beatings, deliberately pushed into barbed wire while handcuffed and blindfolded, and then repeatedly burned with cigarettes on face and hands at an army camp east of Jabaliya in the Gaza Strip (al-Haq Questionnaire No. 135).

the Gaza Strip. He was beaten both while being transported to the Israeli military camp in Rafah and upon arrival at the camp. In addition, he was forced to sit in a yard filled with gravel until approximately 9 a.m. the following morning, when he and a number of other detainees were transferred to Ansar II Military Detention Center in Gaza City. There, detainees were kept on the bus (handcuffed) without food or water, despite the extreme summer temperatures, until approximately 7 p.m. that evening.¹⁶⁶

Mr. Abu-Ghali was later interrogated in Ansar II (during his interrogation he was subjected to prolonged beatings and other forms of illegal physical and psychological treatment).¹⁶⁷ He was released without charges after being detained for a total of 20 days.¹⁶⁸

- b) On 15 June 1989, Hatem Sa'id Mahmoud al-Rukh, a 20-year-old worker from Jenin Refugee Camp in the West Bank, was arrested and beaten while being transported to Jenin Prison, where he was held briefly before being transferred to al-Far'a Military Detention Center. Upon arrival at al-Far'a, he was forced to sit in the prison yard with his hands cuffed behind his back and his eyes covered with a blindfold for 72 hours. According to his sworn statement: "whenever I started to drift off to sleep one of the soldiers would kick me or knock me ... on the head."¹⁶⁹ He was only permitted access to a toilet once every 24 hours during which time his blindfold and handcuffs were briefly removed. Following this period Mr. al-Rukh was transferred to Ansar III where he was detained for six months on an administrative detention order. He was not interrogated during his detention.¹⁷⁰
- c) On 5 April 1989, Munqeth Muhammad Abu-'Atwan, a 22-year-old student from the village of Doura in the Hebron District of the West Bank, was arrested in his home and taken to Hebron Central Prison. Upon arrival at the prison he was put in a small enclosed space of a closet-like construction, which he estimated to be approximately one-half meter square in diameter and two meters in height. Inside the space was a plastic seat to which his hands were tied. According to his sworn statement "a bad smelling sack was put over my head and I was left there for about two days, without being given any food ..."¹⁷¹ He was also deprived of sanitary

facilities. Then he was transferred to al-Moscobiyya (the Russian Compound) where he was later interrogated.

6. Illegal Treatment to Intimidate or "Soften Up" the Detainee Immediately Prior to Interrogation

Al-Haq's documentation reveals a clear pattern of illegal treatment immediately prior to process of interrogation. Such ill-treatment takes the form of *shabeh* (forcing a detainee either to assume a physically painful position or to maintain a single position for extended periods of time while hooded or blindfolded and handcuffed), sometimes coupled with food and sleep deprivation. A total of 113 detainees reported being subjected to various forms of *shabeh* before interrogation started,¹⁷² while 67 reported being prevented from sleeping and 46 reported being deprived of food. This section focuses on examples of that treatment which occur immediately prior to interrogation.

- a) On 26 May 1990, at approximately 10.30 p.m., Ibrahim 'Isa 'Abd-al-Qader Najejra, a 19-year-old *tawjihi* student, was arrested in his home in the village of Nahhalin in the Bethlehem District. The following day he was taken to al-Dahriyya Military Detention center for interrogation. Upon admission to al-Dahriyya, he was hooded and handcuffed and made to stand against a wall for 12 hours. According to his sworn statement, whenever he attempted to change his position "a guard would kick me and swear at me."¹⁷³ His interrogation began immediately following this 12-hour period.
- b) On 31 May 1989 at approximately midnight, Najib Ibrahim Abd-al-Muqsem Farraj, a 30-year-old journalist, was arrested in his home in al-Dheisha Refugee Camp in the Bethlehem District. The following morning he was transferred to the Russian Compound in Jerusalem for interrogation. Prior to his interrogation he was held hooded, seated on a tile, with his hands chained behind him to a wall for 18 hours. During this period he was not permitted to use the toilet, and he was not given anything to eat. According to his sworn statement, after being admitted to the jail, "a bag was put over my head and I was taken to a yard where I was seated on a tile with my hands tied behind my back with a heavy chain ...

which was attached to a pipe fixed to a wall. I was left there without being given any food and without being allowed to go to the toilet for 18 hours.”¹⁷⁴ Mr. Farraj’s interrogation began immediately after this 18-hour period.

- c) On 27 January 1990 at approximately 12.30 a.m., Mahmoud ‘Abd-al-’Aziz ‘Uthman Zeid, a 29-year-old unemployed Palestinian, was arrested in his home in al-Jalazon Refugee Camp in the Ramallah District.²³ Following his admission to Ramallah Prison, Mr. Zeid was forced to sit on a wooden bench, handcuffed and hooded for 14 days. According to his sworn statement he: “was handcuffed and made to sit on a wooden seat with a bad-smelling sack over my head ... continuously for 14 days during which I was not taken to interrogation. I was only let out for meals (I was permitted roughly three minutes for each meal) and to go to the bathroom.”¹⁷⁵ Mr. Zeid was not permitted to sleep during this period. According to former detainees who were subjected to *shabeh* in Ramallah Prison at the same time as Mr. Zeid, during this period Mr. Zeid began calling out meaningless sentences, and at one point, he said very clearly, “The taxi from al-Jalazon²⁴ is here and I want to go home.”¹⁷⁶ Mr. Zeid does not recall speaking but does recall becoming very confused and feeling extremely disoriented after approximately seven days of being held in this position. At the end of this 14-day period he was questioned by two interrogators, and then put in a cell for approximately 24 hours and permitted to sleep before his interrogation resumed.¹⁷⁷

As is clear from the above examples, the length of time detainees are subjected to *shabeh* immediately before interrogation may vary widely. A number of those cases involving shorter periods of *shabeh* also include exposing the detainee to extreme temperatures. For example, ‘Awadallah Isma’il Muhammad Ahmad, a 20-year-old student from Khan Younes Refugee Camp in the Gaza Strip (arrested on 28 May 1991), was forced to stand, blindfolded and handcuffed for approximately four hours in the heat

²³ See discussion of this case in the first section above.

²⁴ Communal taxi are the common mode of public transportation in the West Bank.

of the summer sun in Ansar IV²⁵ (Khan Younes) Military Detention Center immediately prior to his interrogation.¹⁷⁸ In other cases detainees are exposed to cold temperatures. Amin Zidan Ni'ma Khazem, a 23-year-old unemployed man from Jenin Refugee Camp in the West Bank (arrested on 27 January 1988), was blindfolded and handcuffed and forced to stand outside in the yard of al-Far'a Military Detention Center during a winter rain storm for roughly four hours immediately before his interrogation began.¹⁷⁹

In some cases illegal force as well as *shabeh* was also used immediately prior to interrogation, or in a manner which appeared to be part of a "softening up" process. On 27 August 1991, 'Ali Hamdan Ahmad 'Weidat, a 23-year-old worker, was arrested in his home in the village of al-Shyoukh in the Hebron District of the West Bank. Mr. 'Weidat was beaten by an Israeli officer of the military Civil Administration following his arrest and by soldiers while being transported to a temporary detention facility. The first of these beatings provides an example of the use of force apparently for purposes of intimidation. After being arrested, Mr. 'Weidat was handcuffed and transported to the center of his village by an Israeli Civil Administration officer who was accompanied by the village *mukhtar*.²⁶ According to Mr. 'Weidat's sworn statement taken by al-Haq:

[T]he officer asked me the whereabouts of the home of a certain person. I refused to tell him and asked why he didn't ask the village *mukhtar* who was with us.²⁷ He said that he wanted me to tell him. I refused. Then he started hitting me hard in my stomach with the butt of his rifle and I began to scream. He continued hitting me using the butt of his rifle for about ten minutes ...¹⁸⁰

Immediately following this beating Mr. 'Weidat was put in a military vehicle and transported to Hebron Military Headquarters. He was beaten again by soldiers while *en route*. He was held briefly in a lock-up at the

²⁵ In the summer months, temperatures in the Gaza Strip are generally at or above 36 degrees centigrade.

²⁶ A *mukhtar* is a village elder.

²⁷ *Mukhtars* are commonly called upon to lead Israeli military personnel to the homes of individuals in various villages.

military headquarters before being transferred to al-Dahriyya Military Detention Center for interrogation. Prior to questioning, he was forced to stand in the yard of the detention center for two days handcuffed and hooded. According to his sworn statement:

... a guard put a bag over my head and made me stand in a yard until about 11 p.m.... then I was brought before a person [interrogator] named "Captain 'Ami." He asked my name and the reasons for my arrest, but he did not give me time to answer. He slapped me and said that he had no time to see me and that he would have me subjected to *shabeh* for several days.¹⁸¹

Mr. 'Weidat was required to stand in the yard of the detention center handcuffed and hooded for the next two days until his interrogation began.

The following case is also instructive in this respect. On 5 April 1989, Munqeth Muhammad Abu-'Atwan, a 22-year-old student, was arrested in his home in the village of Doura in the Hebron District.²⁸

After being held in a temporary detention facility he was transferred to the Russian Compound for interrogation. Upon his admission to the jail, he was beaten by five Israeli policemen. Then he was taken to a room into which cold air was blown. He was held in this space for five days hooded and handcuffed without being given any food. Mr. Abu-'Atwan described his treatment prior to interrogation:

As I was giving in my personal belongings, five policemen started hitting me. One blow landed directly on my genitals ... Then they forced me to take off my underwear, then put back on my trousers and my shirt ... then I was handcuffed to a seat with a bag over my head and left for five days without any food. During this time I could feel a cold current coming from what I think was an air conditioner. Also during this period various persons would come into the room and ask me whether I wanted "to come to an understanding" or "to tell my story" or "to make it easy on myself" and then they would leave the room.¹⁸²

Mr. Abu-'Atwan's interrogation began immediately following this five-day period.

²⁸ The use of *shabeh* for punitive purposes against Mr. Abu-'Atwan is discussed in the previous section.

7. Summary

The cases reviewed above illustrate practices clearly prohibited by human rights and humanitarian laws. For example, those cases in which detainees suffered fractures or other serious injuries (reviewed in Section One above) and cases such as that of Mr. Ghurab, who was burned on his genitals with a lit cigarette (reviewed in Section Two) unquestionably involve the intentional infliction of severe pain by persons acting in an official capacity for punitive purposes: they clearly meet the definition of torture set forth by Article 1 of the UN Convention Against Torture. Moreover, practices such as deliberate blows to sensitive areas of the body after the individual is already in the control of arrested officials, prolonged and repeated beatings at detention sites accompanied by degrading treatment, as well as *shabeh* coupled with food and/or sleep deprivation or denial of access to toilets, represent forms of mistreatment which, at the very least, violate the absolute prohibition against cruel, inhuman or degrading treatment.

Further, practices illustrated by the cases cited in Section B of this chapter provide evidence of the use of psychological and physical coercion against Palestinian detainees in violation of Article 31 of the Fourth Geneva Convention. The use of such coercion as a technique to intimidate individual detainees before the beginning of questioning is undeniable. Such intimidation is compounded by various forms of illegal treatment routinely used during the interrogation process.

CHAPTER 7

Torture and Ill-Treatment Under Interrogation

According to al-Haq's random survey, at least 94 percent (287 out of 304 persons) of Palestinian detainees who were interrogated during the first four-and-a-half years of the uprising were subjected to torture or ill-treatment during the interrogation process. An examination of the cases documented by al-Haq in the course of its study reveals: fundamental uniformities in interrogation techniques used in detention facilities located in different parts of the OPTs as well as within Israel; a similar standardization of specific methods used in facilities under the general control of different branches of the Israeli government; and the existence of permanent installations -- also in different types of detention facilities -- which permit the application of certain of these interrogation techniques. Further, the results of the field research suggest that specific interrogation techniques may be employed at different stages of the interrogation process, with the latter stages involving more egregious forms of illegal treatment. The combination of these findings overwhelmingly points towards the use of torture pursuant to a well-organized system which requires a level of official involvement and sanction.

As discussed in Chapter 4, the endorsement by the Israeli Knesset of the use of "moderate" physical and psychological "pressure" in the interrogation of "security" suspects, as recommended by the Landau Commission, provides the most obvious source of official sanction for illegal interrogation techniques. Also significant in this regard are the wide arrest and detention powers exercised by the Israeli military authorities in the OPTs (also reviewed in Chapter 4) claimed to be justified on security grounds. Within this framework, the GSS -- which plays a dominant role in the interrogation of Palestinians from the OPTs -- operates with a considerable amount of autonomy. The GSS is accountable directly to Israel's prime minister and is not subject to oversight by other governmental bodies.²⁹

²⁹ The recommendation that the Israeli State Comptroller also review the GSS, made in 1987 by the Landau Commission, was never implemented. See Chapter 4 above for a discussion of the findings and recommendations of the Landau Commission.

This chapter presents the findings of al-Haq's field research, including a discussion of the agencies responsible for interrogation in detention facilities where former detainees interviewed by al-Haq were held, an analysis of Israeli interrogation techniques and a review of evidence which indicates that the torture and ill-treatment of Palestinians under interrogation has, at least to a degree, been institutionalized.

1. Interrogators and Interrogation Sites

Prisons, military detention centers, and police jails are generally administered by separate branches of the Israeli government. Depending in part on the type of facility, interrogations are conducted either by the GSS, the Israeli army, and/or in some instances, the Israeli police. This system is further complicated by the fact that the interrogation units in a number of detention facilities are under the control of the agency responsible for conducting questioning, rather than of the governmental body accountable for the overall administration of the detention site. This system is discussed below in sections examining each type of facility.

a) Prisons

Israeli prisons located inside Israel and in the OPTs are under the authority of the Israeli Prison Services, a semi-autonomous branch of the Israeli Ministry of Police.¹⁸³ The Israeli Prison Services (IPS) is under the direction of the Commissioner of Prisons, who is appointed by the Israeli government. The following lists those prisons in which former detainees interviewed by al-Haq were held, together with the number of interviewees per site:

- (1) West Bank: Jenin (56), Nablus (15), Ramallah (48), and Hebron (36);
- (2) Gaza Strip: Gaza Central Prison, located in Gaza City (48); and
- (3) Israel: Ashkelon (7), al-Jalama (2), and Kfar Youna (1), and 'Atlit (1).

The GSS interrogates Palestinians in IPS' prisons; it also exercises control over the interrogation wings of prisons located in the OPTs. The Landau Commission's recommendations pertain specifically to interrogations conducted by the GSS relating to persons charged with security offense from the OPTs.

b) Military Detention Centers³⁰

The Israeli military is responsible for the general administration of military detention centers located in both the OPTs and inside Israel.¹⁸⁴ Such centers are specifically reserved for the detention of Palestinian males of the West Bank and Gaza Strip arrested on “security” grounds, including those held without charge pursuant to Israel’s administrative detention procedures. Those centers in which persons interviewed by al-Haq were detained included:

- (1) West Bank: al-Far’a (74), Toulkarem (30), al-Dahriyya (42);
- (2) Gaza Strip: Ansar II (Katiba) (110); Ansar IV (Khan Younes) (58);
and
- (3) Israel: Ansar III (Ketziot) (34).

Interrogation takes place at all of these locations with the exception of Ansar III (Ketziot), which is located in the Negev desert and is the principal detention site for those imprisoned without charge or trial. Interrogation in military detention centers is apparently conducted by both Israeli military personnel and GSS officers.¹⁸⁵ However, the military is accountable for any illegality in the conduct of questioning as well as for the interrogation units themselves.¹⁸⁶

c) Police Jails and Police Stations

Police jails and stations are under the authority of the Israeli National Police Authority. They are located in a number of different areas in the OPTs as well as inside Israel. According to the Israeli authorities, such jails are intended to hold those persons who have yet to be formally charged. Once charged they are to be transferred to one of the other types of detention facilities. It should be noted, however, that in different periods during the past four-and-a-half years, some larger police jails have been utilized as *de facto* prisons.¹⁸⁷

³⁰ See the final segment of this review of facilities for a discussion of temporary holding facilities, known as “lock-ups” which are also administered by the Israeli military.

(1) Police Stations:

West Bank: Nablus, Ramallah, East Jerusalem, Bethlehem, Hebron, and

Gaza Strip: Gaza City, total number interviewed (20);

(2) Police Jails:

Israel: al-Moscobiyya (38); Petah Tikva (23);

Some jails also serve as interrogation centers. The largest of these, the Moscobiyya, houses an interrogation center which appears to be run by the GSS.¹⁸⁸ The GSS is also reportedly responsible for interrogations conducted in Petah Tikva.¹⁸⁹ In addition, the documentation indicates that Israeli police have also interrogated Palestinians in police stations in the OPTs.¹⁹⁰

d) Temporary Holding Facilities

During the uprising, Israeli military buildings and compounds have been used as holding facilities in a number of locations in the OPTs. Administrative responsibility for these facilities rests with the Israel military. The period of detention in such facilities, according to al-Haq's information, has ranged from a few hours to several weeks at various periods during the uprising. In 1992, persons appeared to be detained in such facilities for shorter periods of time (several hours to several days) than during the previous four years:

(i) West Bank: Bethlehem (al-Bassa) (18);

(ii) Gaza Strip: Jabaliya Military Camp (7); Gaza Military Camp (2); Khan Younes Military Camp (4); al-Breij Military Camp (30); Deir-al-Balah Military Camp (3), and Rafah Military Camp (12).

In general, persons are transferred to one of the other facilities listed above for formal interrogation. However, as reported by the Palestine Human Rights Information Center (PHRIC), there was also a pattern of

interrogating within these holding facilities Palestinians accused of stone throwing¹⁹¹ in the Hebron District. Subsequent statements by Israeli officials have revealed that such interrogations were conducted by a roving unit of Israeli police interrogators who worked throughout such facilities in the West Bank. Deputy Police Commander Captain Yossi Portugal was reported by the Israeli press as confirming the existence of this police interrogation unit, adding that it acts "in cooperation with the Israeli army."¹⁹² Israeli press reports also quoted an unnamed "police and security source" as having noted that the GSS "also cooperated with them. At least they gave them the prisoner list."¹⁹³

As is clear from the above review, the evidence indicates that the GSS, the Israeli military and the Israeli police have all participated in the interrogation of Palestinians of the OPTs. It must be stressed that, under international law, the different branches of the Israeli government responsible for supervision of the various interrogators are implicated in any illegal conduct committed in the performance of official duties by those interrogators in their employ.

While it is clear that different Israeli agencies conduct interrogations, equally evident is the dominant role played by the GSS. The GSS is the only agency which officially conducts interrogations in three of four types of facilities and has sole responsibility for interrogations in at least one of these. There is a clear implication that the other branches of Israel's law enforcement and security system defer to the GSS.¹⁹⁴ In fact, according to the Landau Commission, in previous years, the GSS has provided "professional instruction" to interrogators outside the secret service, specifically to those affiliated with the Israeli army.¹⁹⁵ Thus, the standardization of specific interrogation techniques, examined in this chapter may be attributable to the influence of the GSS and of its internal guidelines for interrogation.¹⁹⁶

2. Interrogation Techniques

The following methods of interrogation were documented in 234 cases of Palestinian former detainees who had all been interrogated:

- beatings -- often with implements -- on various parts of the body including genitals (95.3 percent);

- *shabeh*: placing a person in a physically stressful or painful position for long periods of time (91.5 percent);
- covering the top of the head, the eyes, nose, mouth, and neck with one or more cloth sacks sometimes wet and often foul smelling (80.7 percent).
- isolation in small enclosed spaces (46.6 percent), sometimes of a cupboard-like or coffin-like construction (39.3 percent);
- threats to kill the detainee, or arrest and torture family members and other forms of psychological force (46.2 percent);
- various forms of asphyxiation or choking for measured periods of time (44.0 percent);
- food deprivation (35 percent);
- sleep deprivation (34.2 percent);
- exposure to extreme temperatures (24.8 percent); and
- electric shock (6.8 percent).³¹

After comparing torture techniques used by the GSS prior to the Landau Commission with the techniques surveyed by al-Haq, we concluded that the majority of torture techniques revealed by the survey are, in fact, a continuation of techniques used before 1987. Therefore, we can confidently say the methods of torture still employed were those recommended for continuation by the Commission and kept confidential.

The GSS systematically uses *shabeh*, food and sleep deprivation, etc, during interrogation. These techniques, as revealed from the survey, show a preference for using long-term physical and psychological mistreatment techniques over direct and intensive physical torture; however, physical torture is still widely used.

Various combinations of torture were used in the interrogation of individual detainees. For example, Muhammad Husein Muhammad Daher, an 18-year-old resident of Jabaliya Refugee Camp, was interrogated for eight days in Ansar II (Katiba) Military Detention Center in Gaza City.¹⁹⁷ Mr. Daher was arrested on 22 August 1991; his interrogation began on 27 August. During the interrogation process, Mr. Daher was forced to stand blindfolded with his hands cuffed behind his back for 48 consecutive hours (a form of *shabeh*) while exposed to the

³¹ The facts of the relevant cases and the comparatively small percentage indicate that pattern of the use of electric shock is different from that of the other practices listed here. It is discussed in a separate section below.

summer sun and extreme heat. During these two days he was periodically struck (apparently to prevent him from dozing), completely deprived of food, and his access to sanitary facilities severely restricted. Afterward, when questioning began, Mr. Daher was also subjected to severe beatings and repeated choking. The following is extracted from his sworn statement:

... a soldier took me and made me stand with my hands cuffed behind my back and my eyes blindfolded out in the extremely hot sun, in the interrogation section. After about an hour, I was taken to a room in which there was an officer, who claimed his name was Captain "Rami." He questioned me. Then I was taken back to stand in the sun, handcuffed and blindfolded. They left me there for two consecutive days [48 hours], during which I was hit at intervals, and a number of small stones were thrown at me. Moreover, I was not given anything to eat throughout this period, and I was allowed to go to the toilet once.

On the third day, I was taken to a second round of interrogation during which Captain "Rami" made me kneel with my hands tied behind my back, and started asking questions and hitting and kicking me. He punched me on various parts of my body including my genitals, head, and neck. He also repeatedly choked me by wrapping his hands around my neck and applying pressure. This session lasted about an hour.

A soldier then took me back out to stand in the yard, blindfolded and handcuffed. After about 15 minutes, I collapsed to the ground. They tried to make me stand up again but I could not. So they took me to a cell. After three hours, I was given something to eat for the first time since the interrogation began. Three hours later, I was taken back outside the stand, handcuffed and blindfolded.

During the next five days, I was only brought in from standing outside for sessions with the interrogators ... and for two to three hours daily when they would let me go to a cell.

In this five-day period, Mr. Daher describes an intensification in the interrogation. Mr. Daher related one such beating as follows:

... three interrogators forced me to the floor with one of them squeezing my throat, the second pressing on my genitals, and the third kicking me in the stomach. This continued for about 15 minutes, during which I screamed as much as I was able to.

On 6 September 1991, Mr. Daher was released without being charged with any offense.

The following three examples illustrate other combinations of common practices. These examples involve interrogations conducted in a prison, a police jail, and a military detention center:

- a) As'ad Muhammad As'ad Steiti, a 19-year-old worker from Jenin Refugee Camp in the West Bank, was arrested on 5 March 1991 and interrogated in Jenin Prison for 45 days.¹⁹⁸ During his interrogation, Mr. Steiti was enclosed in a small space of a cupboard-like construction, choked for limited periods of time, subjected to a different form of *shabeh*, and to various forms of physical brutality. The following excerpt from his sworn statement begins with his treatment after midnight on his first day of interrogation:

I was taken to a very small cement closet, about one by one meter in which there was a cement seat. I was left there with my hands cuffed behind me and my feet cuffed together. At about 9 a.m. the next morning, an interrogator who I later learned went by the name of Captain "Aron" took me out of the closet to the interrogation room and said: "Do you want to confess or not?" then immediately began hitting me ...

Four other Israeli officials joined in this beating. Mr. Steiti reported that they:

... threw me to the floor and started stepping on my stomach, neck and head until I lost consciousness. Then they poured water on me and one of them pretended to be nice and said he would help me if I confessed. This interrogation session lasted for about an hour, after which I was taken to the closet for an hour then was brought back to the interrogation room. ... [During this session] they threw me to the ground and started kicking me. After that they made me sit on a stool. My hands were cuffed behind me and my legs were cuffed to the legs of the stool ... then [an interrogator] put his foot on my chest and forced me to bend backwards. ... I felt intense pain in my spine as I bent backwards. In that same session, I was choked several times for about a minute each time during which I would feel like a chicken whose neck was being wrung ...

As his interrogation continued, Mr. Steiti was repeatedly subjected to such choking, and was enclosed in the "closet" for prolonged periods. Following the interrogation process, he was placed under administrative detention for four months.

- b) Najib Ibrahim 'Abd-al-Muhsen Farraj, a 30-year-old journalist from al-Dheisha Refugee Camp in the Bethlehem District, was arrested on 31 May 1989 and interrogated for 45 days in the jail run by the Israeli police¹⁹⁹ in the Russian Compound, al-Moscobiyya. In this case, the interrogator employed: psychological coercion in the form of threats against Mr. Farraj; a third form of *shabeh* (accompanied by hooding, food and sleep deprivation, and prolonged denial of access to a toilet); enclosure in a small closet-like space while keeping Mr. Farraj hooded and handcuffed; and, specifically blows to the head and genitals. Mr. Farraj described the following events in his sworn statement:

... [an interrogator] asked me several questions regarding my nationalist activities and accused me of being a member of one of the Palestinian [political] groups. I denied the charges. He threatened to keep me in jail for a long time, to deny me food and water, and to make me [physically] incapable of having children if I did not confess

...

This interrogation session lasted approximately five hours, during which Mr. Farraj was repeatedly threatened. Following this session he was taken to a yard in the jail compound, seated while hooded, with his hands cuffed behind his back and attached to a pipe fixed to the wall. In his affidavit he reported that he was held for 72 consecutive hours in this position and that he:

... spent these three days without food and without being allowed to go to the toilet. On the evening of the third day I was allowed to go to the toilet, then I was put in a cell ... [and given] a potato sandwich. As soon as I finished eating I was taken back to the yard where I was tied up like before. I was left there for two days ...

Following these two days, Mr. Farraj was interrogated again. When he still refused to confess he was placed in the "closet." According to Mr. Farraj's affidavit:

... a guard seated me in a small dark room, similar to a closet, with my hands tied behind my back and a bag over my head, where I spent about seven days. As of the second day I was given one meal per day. While I ate, the bag and cuffs were removed. It was difficult to sleep because every half an hour the guards would bang on the door.

After this seven-day period, Mr. Farraj was brought before three interrogators. During this session he was beaten:

... one of them [the interrogators] began by hitting me on the head with a heavy set of hand cuffs. As a result I lost consciousness. When I woke up ... they started beating me up all over my body. My head got bruised and swollen

Mr. Farraj was repeatedly beaten in subsequent sessions during the interrogation process. In addition to random blows to his body, Mr. Farraj reported that "they would use their feet to press on my genitals, which was very painful."²⁰⁰ In between interrogation sessions, Mr. Farraj was held for prolonged periods of time in the "closet." To provide another example of this treatment, Mr. Farraj described being subjected to the following forms of mistreatment while he was in the closet for a second week hooded and handcuffed:

For a whole week ... I was not allowed to go to the toilet. I was forced to urinate in my clothes. They gave me a meal every one or two days. They also gave me a little water to drink but it was not enough, the weather was hot ...

At the end of the 45 days of interrogation, Mr. Farraj was sentenced to five-and-a-half months imprisonment, credit being given to the time in custody prior to sentence; he was released on 9 November 1989.

- c) 'Ali Hamdan Ahmad 'Weidat, a 23-year-old worker from the village of al-Shyoukh in the Toulkarem District was arrested on 27 August 1991.²⁰¹ He was taken to al-Dahriyya Military Detention Center in the Hebron District of the West Bank, where he was interrogated for 16 days. While undergoing interrogation, Mr. 'Weidat was forced to stand for long hours while hooded and handcuffed, choked, and subjected to various forms of physical brutality. The following excerpt from Mr. 'Weidat's sworn

statement begins following his admission to the interrogation section of al-Dahriyya:

... a guard put me in a cell, about two meters by two meters in size, in which there was a sponge mattress and two blankets. The morning of the next day, a guard cuffed my hands behind my back, put a bag over my head and made me stand in a yard until about 11 p.m. During this time I was given two meals. Then [after 11 p.m.] I was taken before a person named Captain "Ami." He asked my name and the reason I was arrested, but he didn't give me time to answer. He slapped me and said that he had no time to see me and that he would have me stand in the yard, hooded and handcuffed for several days. I was then taken back to the yard for about one hour, after which I was returned to the cell.

I spent the entire next day and evening standing in the yard with a bag over my head and my hands cuffed behind me. I was taken back to my cell at night.

Mr. 'Weidat was left standing in the courtyard again the next day. At approximately 10 p.m. that evening he was brought back before the interrogator "Ami":

... ordered me to lie on my back. I did. He then ordered me to open my legs. He knelt, put his knees on my genitals and his hands around my throat and began to press hard. I felt that I was choking. He removed his hands, then did it again and again and again for a total of about ten times. My saliva flew out of my mouth, and I felt like I was going to die. Then he punched me in the stomach and on my genitals
...

Mr. 'Weidat was choked and beaten late every evening in interrogation sessions for the next three days. During daylight and early evening hours, Mr. 'Weidat was left standing in the courtyard handcuffed and hooded; following the interrogation sessions he was returned to solitary confinement. This pattern was slightly altered on his seventh day under interrogation:

... day seven ... I was taken to the interrogation room at about 6 p.m. "Ami" was there along with two others. After questioning me for approximately 10 minutes, all three attacked me, punching me on various parts of my body. I fell to the ground and they ordered me to stand up again. During the next roughly one-and-a-half hours they beat me approximately 10 times. I have never felt as debilitated and sick.

On days eight through 13, the methods used in interrogating Mr. 'Weidat alternated between evening sessions with "'Ami" alone, in which he was beaten and choked, and evening sessions with "'Ami" and two others during which he was subjected to multiple beatings. The remainder of the time he again was alternated between solitary confinement and being stood in the yard handcuffed and hooded. The final three days of his time in the interrogation unit (days 13 through 16) he was left in solitary confinement; he was not questioned during this period. He spent the next 26 days in the detention section of al-Dahriyya, in a cell with 25 other detainees. He was released on bail on 12 October 1991.

Despite the use of different combinations of practices, the examples reviewed above reveal a fundamental similarity in interrogation methods. While this was true for the case pool in general, variations of these basic techniques -- and the ways in which they were applied -- were also apparent.

3. Standard Variations of Specific Interrogation Techniques

This section examines the main variations of five principal interrogation techniques: 1) beating; 2) *shabeh*;³² 3) hooding; 4) asphyxiation; and 5) psychological coercion. The following discussions are based upon practices reported by the pool of 234 cases of persons interrogated.

a) Beating and Other Forms of Physical Brutality

Beating was the most common of the techniques utilized in the interrogation of Palestinians in Israeli custody during the first four-and-a-half years of the uprising. In addition to blows all over the body, former detainees consistently reported beating which concentrated on sensitive areas of the body. Of the pool of 234 cases, a total of 135 former detainees (58 percent) reported being subjected to repeated blows to the genitals during questioning. In many cases, such were accompanied by

³² As noted above, *shabeh* comprises placing a person in a physically stressful or painful position for long periods of time.

simultaneous blows to other sensitive parts of the body such as the stomach, and/or the head and neck. For example, Wa'el Ramadan Saleh al-Sirr, an 18-year-old student from Khan Younes Refugee Camp in the Gaza Strip, was arrested on 15 April 1991. Mr. al-Sirr described suffering repeated blows to his genitals and head during his interrogation in Ansar IV (Khan Younes) Military Detention Center:

"Yoni" [one of the interrogators] ... seated me on a chair. Then he sat on a chair facing me and put his foot on my genitals and began to press, asking me to confess. When I said that I didn't know what he was talking about, he kicked me hard on my genitals four times, while the other [interrogator] was punching my head ... Then they showed me bloodstains on the wall [of the interrogation room] and told me that I would only leave the room on a stretcher .. [Then] "Yoni" grabbed my genitals and squeezed them on and off for about ten minutes. The other interrogator brought me over to the wall ... and started banging my head against it [the wall] ... *There was blood* on my face and blood came out of my mouth. I began to scream ... then he forced me to put my lips and face on the wall so I could see the stains of my own blood on the wall ...²⁰²

This and other forms of physical brutality have had serious physical effects: 1) 86 former detainees required medical treatment or hospitalization (36 percent); 2) 67 suffered sustained bleeding from injuries (28 percent); 3) 60 lost consciousness for varying periods of time (26 percent); and 4) 25 suffered fractures or broken bones (10 percent). The following case illustrates some of these results.

Salah Muhammad Tayeh al-Khawaja, of the village of Ne'lin in the Ramallah District, is a 22-year-old student at al-Quds University. He was arrested on 22 January 1992, and was interrogated both in Ramallah Prison and Ramallah Police Station.²⁰³ Four days after his arrest, Mr. al-Khawaja was transferred directly from the interrogation section of Ramallah Prison to Ramallah Hospital. The following excerpts from Mr. al-Khawaja's sworn statement depict the forms of physical brutality to which he was subjected:

... a soldier took me ... to an upper floor in Ramallah Prison ... into a room in which I saw Captain "Jaber", whom I recognized as the secret service officer [GSS] in charge of the area in which I live ... He called over two soldiers and told me, "If you do not confess we will finish you off." Then the two soldiers took me by my shoulders and pushed me to the ground. I fell onto my back and hands, which were cuffed

behind me. The two soldiers and "Jaber" started stepping on and kicking me on my genitals, stomach, and head. During this "Jaber" kept asking me questions and when I did not respond the beating would intensify. This beating continued for approximately 20 minutes.

Following this beating, Captain "Jaber" attempted to engage Mr. al-Khawaja in conversations; he offered him coffee and a cigarette. According to Mr. al-Khawaja's sworn statement, when he still refused to confess, Captain "Jaber" said:

"It seems you want to die." I answered: "Death is better than living like this." He became very angry and started beating and kicking me randomly all over my body. Then he concentrated the beating on my genitals and stomach. This continued for approximately an hour with the beating stopping roughly five times for very short intervals of about three to five minutes. Then a soldier came and led me through a corridor on the upper floor and left me standing, handcuffed and hooded, with the front of my body facing the wall ...

He was left in this position until the next morning. Then, he was taken to Ramallah Police Station. Upon arriving at the Police Station:

a secret service officer, whom I later heard called "Beni" took me to a section that seemed to be recently constructed ... He ordered me to stand in the corner of one of the rooms which he then entered closing the door behind him. Then I saw him take out a pistol and start playing with it threateningly; he said: "I will finish you off, if you don't confess." He ordered me to sit on a chair that was at a table. On the floor of the room there was a rubber tube, a stick of about one meter in length, a piece of twisted metal, also about one meter in length, and a rope about two meters in length.

After I sat on the chair, "Beni" told me: "We want to finish this up and have you confess." I told him: "I do not have anything to confess." He looked angry and started spitting on my face and cursing me and said: "I will make you blow it out your ass." Then he covered my eyes with a black cloth, and put me in the corner of the room and started beating me with the rubber tube on my legs, chest and head. The beating continued for five minutes.

Then he stopped and removed the blindfold and asked me to sit down. I did. He then asked me to sign a document written in Hebrew. I refused; he blindfolded me again and undressed me, taking off my trousers and underwear, and pulling my jacket, shirt, and undershirt off my upper body. He could not completely remove the clothes from my

upper body because my hands were cuffed behind my back, so he left them hanging from the cuffs. He then poured cold water on me and started beating me with the hose on my feet and back. Five minutes later, I fell backwards to the ground. He continued beating me, saying: "Stand up, get up, you are acting." This continued until I felt I was about to faint. Then he left the room, closing the door behind him.

Mr. al-Khawaja was taken back to Ramallah Prison; he was interrogated through 25 January. In the middle of the night on 25 January, he woke up in pain:

At approximately midnight, I started feeling intense pain in my stomach and all over my body. I began screaming for a doctor. A soldier answered me and asked me what was the matter and I told him ... At about 2 a.m. ... I was taken by ambulance to Ramallah Government Hospital.

The attending physician, Dr. Jawad Sunnuqrot of Ramallah Government Hospital, issued a medical report on 27 January in which he stated:

... Salah Muhammad Tayeh al-Khawaja ... was urgently admitted to the surgery section on 26 January 1992. He was suffering from severe stomach pains accompanied by vomiting. He was also suffering from severe pains in the legs and back. After examining him it was found that he had contusions on his left shoulder and on both legs ...²⁰⁴

The case of Riyad Muhammad Sa'id al-Shalabi, a 25-year-old merchant from East Jerusalem, provides one example of physical brutality resulting in broken bones. Mr. al-Shalabi was arrested on 17 July 1990 and subsequently interrogated in al-Qishla Police Station in Jerusalem by an interrogator who said his name was "Rami Hiftez." The following is an excerpt from his sworn statement:

I was ... blindfolded and handcuffed ... the interrogator tied my hands to a chair. He asked me to confess. Then he told me that he would get someone who would force me to confess ... [Then] I heard someone come into the room and suddenly someone started beating me with what felt like a club on all parts of my body, but especially my hands and head. This continued for about 30 minutes. Then I heard the door open and shut. Captain "Rami" ... asked me if I wanted to confess. When I told him I had nothing to say, he threatened again that he would bring someone who would make me confess. I heard the door

open and shut again ... and [someone] started beating me with a club on my hands, legs, and head, this time for about 40 minutes.

When Captain "Rami" came back into the room he removed Mr. al-Shalabi's blindfold and untied him. According to Mr. al-Shalabi's affidavit:

I was suffering from intense pain, my hands were incredibly swollen and I could not move them ... [Then] another interrogator came into the room. When he saw me, he said that I should be taken to the hospital immediately. I was taken to Hadassah 'Ein-Karem Hospital ... [and treated] in the emergency room ... [I had] a broken bone in my right hand and two broken bones in my left hand and my right leg was fractured ... they covered my hands and arms up to the elbows with plaster.²⁰⁵

After receiving treatment, Mr. al-Shalabi was taken to the Russian Compound where he was admitted to a cell. He was not interrogated again. A few days later he was released on bail.²⁰⁶

As discussed in Chapter 2 of this report, blows to the genitals which result in wound, fractures, and broken bones, as well as severe blows all over the body have all been judged to constitute torture by international judicial bodies. The cases reviewed above provide examples of the use of these techniques in the interrogation of Palestinians in a military detention center in the Gaza Strip, an IPS prison in the West Bank and a police jail in East Jerusalem. They illustrate one category of cases (examples of which were documented in all types of detention facilities) which, in al-Haq's opinion, constitute instances of torture solely on the basis of the brutality to which the detainee was subjected.

b) *shabeh*

Shabeh, which comprises various forms of position abuse, is usually accompanied by hooding or blindfolding, and often by a reduction or, in some cases, complete deprivation of food and/or sleep. *Shabeh* may also be accompanied by a denial or severe limitation on access to toilets. Ziyad Hasan 'Abd-al-Fattah Abu Hawwash, a 27-year-old resident of the village of Doura in the Hebron District, was interrogated at Jenin Prison by GSS officers from 10 June through 27 August 1991. The following excerpt from his sworn statement describes this combination of practices:

[an intelligence officer] covered my head with a very bad-smelling sack which looked like a long hat, that reached down to my chest. Then he tied my hands, which were already cuffed, to a pipe fixed to a wall, so that I had to remain standing very close to the pipe. I was kept in this position for three consecutive days without being given any food or water. I was only allowed to use the toilet once.²⁰⁷

According to al-Haq's field research, over seven different forms of *shabeh* have been used during the uprising. The most common of these are: 1) sitting with hands bound either in front or behind the body often with the cuffs attached to a wall or other solid object while hooded or blindfolded and handcuffed; 2) being held outdoors (hooded and handcuffed) either standing or seated while exposed to hot, cold or wet weather; 3) standing or semi-upright with hands bound either in front or behind the body while hooded or blindfolded; and 4) hooded or blindfolded while held seated or standing in a small enclosed space. Also documented, although not as common are: 5) being hooded and tied to a solid object with both knees and back bent (referred to by detainees as the "banana tie"); 6) binding the hands, arms, and legs with more than one set of handcuffs and affixing the cuffs to another object; and more rarely, 7) partially or totally suspending the detainee by one or both of his hands or feet.

In the course of the interrogation process, detainees are often subjected to more than one of these forms of *shabeh*. For example, Farouq Muhammad Isma'il 'Weina, a 21-year-old worker from the village of Battir in the Bethlehem District, was subjected to three different forms of *shabeh* during his interrogation in the al-Moscobiyya following his arrest on 22 May 1989. After being forced to stand hooded and handcuffed to a wall, his hands were cuffed behind him and affixed upward at an angle to a wall while he was seated on a stone bench. Sustaining this latter position, according to Mr. 'Weina's affidavit caused him "intense pain in my hands and shoulders." The final form of *shabeh* Mr. 'Weina described as follows:

I was half-standing, half-sitting with my hands cuffed to the wall behind me. It was the most difficult of the three methods. It hurt my back, hands, and shoulders. I stayed in that position for two hours.²⁰⁸

In some cases, *shabeh* causes visible physical effects such as swelling of the hands or arms, as well as other physical symptoms. For example, Nidal Muhammad Sa'id Abu-Lawi, a 28-year-old civil engineer from the West Bank town of Nablus, was subjected to a form of *shabeh* in which he was partially suspended off the ground from his wrists (his body weight fell on one foot and his arms) during his interrogation in Toulkarem Military Detention Center in March 1991.²⁰⁹ Mr. Abu-Lawi described this form of *shabeh* and its results in a sworn statement:

... my hands [were tied] at my back and raised so that they were at the same level as my neck, then attached to an iron door ... [O]ne of my feet [was tied] up to the same door so that I could not put it on the ground. I had to keep hopping to relieve the pressure on that leg and my hands and arms ... [I was] left in that position a whole night: from about 10 p.m. until the next morning. [Afterwards] my hands were swollen and I could not move my right hand for two days.²¹⁰

The form of *shabeh* known as the "banana tie," is most often used during questioning sessions and generally is accompanied by blows to areas of the body exposed by this position. Ra'ed Sari 'Abd-al-Qader Khalil, a 19-year-old resident of the village of Beit Iba in Nablus District, was interrogated in Toulkarem Military Detention Center following his arrest on 22 June 1988. Mr. Khalil reported that during one session, one of the interrogators:

... grabbed a sack, put it over my head, tied my hands to my back, and seated me on a backless chair and tied my legs to the front legs of the chair. He pushed on my chest bending me backwards until my head was bent down towards the floor causing intense pain in my back. Then he kicked my genitals and I came back up quickly ... he started hitting me with his fists on my stomach to force me back down again. This continued for about 10 minutes during which they [the interrogators] were asking me to confess.²¹¹

The various forms of *shabeh* have been a standard part of the interrogation of Palestinians in Israeli custody during the uprising. As shown by cases cited above, in some instances, *shabeh* causes extreme pain. Further, the more common examples are strongly reminiscent of the interrogation techniques described in the *Northern Ireland* case, which were found to constitute torture by the European Commission on Human

Rights³³. In this regard, it is important to recall that, as discussed in Chapter 4, the Landau Commission explicitly referred to the *Northern Ireland* case in the discussion of the forms of “pressure” it had recommended for use during interrogation in the secret portion of its report. While the Landau Commission maintained that it recommended practices less severe than those used by the interrogators in *Northern Ireland*, this is not reflected by the facts of the case documented by al-Haq.

Moreover, the accidental discovery of a “Medical Fitness Form” in the file of a Palestinian detainee by his attorney provided indirect official confirmation of documented evidence. According to press reports, the medical form asked Israeli doctors to certify if a detainee was fit for interrogation.²¹² The form, found among the detainee’s medical records turned over to his attorney, Tamar Peleg, by Israeli prison officials in the Occupied West Bank stated that the detainee “*could be bound, hooded and made to stand for long periods.*”²¹³ The existence of this form for use by doctors associated with detention facilities signals the institutional nature and official sanction of these practices.³⁴

c) Hooding

In total, 189 former detainees reported being hooded during the interrogation process. Although they may vary in length, these hoods all cover the top of the head, eyes, nose, mouth and most of the neck. The material from which they are made may also vary somewhat from facility to facility. However, they are always constructed of fabric dense enough (generally [cloth or] burlap) to prevent the detainee from seeing and to screen out virtually all light. Further, detainees report that the hoods smell foul, sometimes reeking of urine, excrement, or vomit.²¹⁴

³³ For a discussion of this case, see Chapter 2 above.

³⁴ Further, the use of this form by prison doctors and other medical personnel affiliated with detention facilities raises serious questions with regard to violations of medical ethics. Al-Haq agrees with the reported position of the Israeli Medical Association on this issue: for doctors to complete this form would indeed constitute “collaboration in torture” as defined by the Tokyo Declaration, which relates the principles of medical ethics relevant to the role of health personnel in the protection of prisoners against torture and ill-treatment. [See: *Washington Post*, 1 July 1993).

Palestinian detainees are most commonly hooded while being subjected to *shabeh*, even when they are already isolated from each other. A total of 92 former detainees reported being hooded while enclosed in a closet or cupboard-like space, while 50 reported being hooded while being held in solitary confinement in a cell or small air-conditioned room (in some cases known as a "refrigerator"). For example, Munqeth Muhammad Abu-'Atwan, a 22-year-old student from the village of Doura in the Hebron District, reported being hooded and tied to a chair in an air-conditioned room for the first five days of his interrogation in al-Moscobiyya in April 1989.²¹⁵

... I was tied to a seat with a bag over my head and left there for five days without any food. During this time I could feel a cold current coming from an air conditioner. During those five days persons used to enter the room and ask me whether I wanted "to come to an understanding," or "to tell the story," and "make it easy for myself"

²¹⁶

...

Hoods are also sometimes used as an aid to asphyxiation or choking for measured periods of time. In some of these cases, more than one hood is placed over a detainee's head. For example, Tawfiq Muhammad 'Abd-al-Rahman al-Mabhouh, a 48-year-old construction worker from Jabaliya Refugee Camp in the Gaza Strip, was interrogated for 18 days in Gaza Central Prison following his arrest on 6 March 1988. The following is excerpted from Mr. al-Mabhouh's sworn statement describing his interrogation³⁵:

They pushed me to the ground, put ... four bags over my head and poured water over the bags. One of them sat on my stomach, another began to press on my throat, a third squeezed my testicles while another started kicking me all over my body. There was little air because of the bags soaked in water and I had trouble breathing. I felt like I was suffocating ...²¹⁷

The United Nations Special Rapporteur on Torture specifically recommended in his 1991 report that "the blindfolding or hooding of detainees during interrogation should be absolutely forbidden."²¹⁸ Al-Haq

³⁵ See the section on stages in the interrogation process for a further discussion of this case.

fully agrees with this position. Hooding contributes to the disorientation of the detainee, and as illustrated by the above examples, has often been used to aggravate the effects of other illegal interrogation techniques. Moreover, blindfolding or hooding a detainee can make later identification of officials who employ illegal interrogation methods far more difficult if not virtually impossible.

d) Asphyxiation

According to al-Haq's field research, asphyxiation for measured periods of time was used with considerable frequency in the interrogation of Palestinians during the uprising. A total of 103 former detainees reported being choked (or suffocated) during the interrogation process. The documentation revealed the use of three principal methods of asphyxia: 1) constricting the throat manually or with an implement such as an iron bar (15 cases); 2) holding both the mouth and nose closed sometimes with the use of a hood which had been wet (22) cases; and 3) strangulation through constriction by a hood or blindfold at the throat (14 cases).

The use of asphyxiation as an interrogation technique was not restricted to a particular interrogation site: the cases documented occurred in military detention centers, prison services prisons and police jails and stations in the West Bank and Gaza Strip as well as inside Israel. The following examples illustrate the principal methods of asphyxia and the different location in which the cases occurred:

- While under interrogation in al-Dahriyya Military Detention Center in December 1991, Khaled Mahmoud Ahmad 'Idallah (a 27-year-old worker from Dheisha Refugee Camp) was choked manually by an interrogator known as "Captain "Ami" ... pressed heavily on the front of my throat [with his hand] until I started to choke and vomited."²¹⁹
- During questioning in Jenin Prison in December 1989, Fares Fadi Ahmad Husein Nassar (a 30-year-old worker from al-Far'a Refugee Camp) was repeatedly choked. According to Mr. Nassar, one of the intelligence officers who was interrogating him "grabbed my throat and pressed hard for a short period of time. I felt like I was going to vomit."²²⁰ During another session, a stick pressed against his throat cut

off his air supply; pressure was maintained until he lost consciousness.²²¹

- In the interrogation process in Petah Tikva Jail in Israel in December 1989, Husam Muhsen Sa'id al-Ruzza (a 32-year-old merchant from the city of Nablus) was hooded and repeatedly choked by a GSS officer known as "Micki": "he placed a bag over my head and pulled it tight around my neck so that I could not breathe. He repeated this five times during one hour ..."²²²
- During his interrogation in Gaza Central Prison in August 1988, a 31-year-old worker from al-Brej Refugee Camp was subjected to the following form of asphyxiation by a GSS officer known as "Abu Feisal": "he placed another hood [on top of the first] over my head, poured water over the hoods and held my nose and mouth closed with his hands on top of the hoods. I was choking and I tried to scream ..."²²³
- While being interrogated in Ansar II (Katiba) Military Detention Center in January of 1988, Ibrahim Sha'ban Ali Harb (a 28-year-old restaurant worker from al-Shate' Refugee Camp) had his breathing repeatedly constricted by an interrogator in civilian dress who closed off his windpipe by stepping on his throat: "the interrogator ... forced me to lie on the ground face-up, while he stepped on my throat. I was unable to breathe. The interrogator repeated this each time I was summoned to interrogation. One time, blood streamed out of my nose while he was stepping on my throat."²²⁴

In addition to illustrating the various means of asphyxiation, the examples cited above also indicate some physical effects which may result from this interrogation technique. This method of interrogation also has a significant psychological impact, with detainees often reporting that they feared they would die. This is illustrated by the following excerpt from a sworn statement by Shafiq Salim 'Oda al-Hawamda, a 24-year-old student from the village of Samou' in the Hebron District, who was interrogated in al-Dahriyya Military Detention Center:

... [the interrogator] sat on my chest and pressed on my throat. He told me, "if you move your head, that means you want to confess." Then he pressed down so hard on my throat that I thought I was going to die ...²²⁵

The documentation indicates that interrogators are aware of the potential threat to the lives of those asphyxiated. In a number of cases detainees reported that while applying this measure interrogators either watched their faces closely or timed themselves. For example, 'Awadallah Isma'il Muhammad Ahmad, a 20-year-old student from Khan Younes Refugee Camp, reported that the following occurred while he was under interrogation in Ansar IV (Khan Younes) Military Detention Center in May 1991:

... [the interrogator] told me, "Either you leave here dead or you confess." He took the blindfold off my eyes and put it around my throat, and began choking me with it while looking at his watch. When I was on the verge of being strangled he relaxed the blindfold. He repeated this several times.²²⁶

Detainees subjected to asphyxiation during interrogation in other detention facilities, during other periods of the uprising also related incidents in which they noticed interrogators paying close attention to the time during bouts of choking. Ra'ed Rateb Rajeh Bali, an 18-year-old student from the town of Jenin in the West Bank, reported that while being interrogated in al-Far'a Military Detention Center in April 1989:

One of them [the interrogators] put one hand on my mouth and encircled my neck with the other and pressed down for a few seconds. Once I saw an interrogator looking at his watch while the other was choking me ... It seems that they do it for a certain number of seconds.²²⁷

Al-Haq received similar reports from individuals interrogated in other facilities.²²⁸

In other cases, former detainees recounted being closely watched by interrogators while being asphyxiated. Naser Muhammad Salama Jaradat, a 20-year-old resident of the village of Sa'ir in the Hebron District, recounted that while under interrogation in Hebron Prison an interrogator who called himself "Gabi" repeatedly:

... put his hands around my neck and pressed hard while watching my face ... it seemed that he removed his hands when he felt I was close to being completely asphyxiated, then he repeated the process again.²²⁹

Such reports indicate that this interrogation technique is applied methodically. The number of different interrogation sites in which cases have been documented, and the manner in which it is used suggest a level of coordination and even training. This suggestion is further supported by information which came to light following the death of a Palestinian detainee from "asphyxiation" in the interrogation wing of Jenin Prison on 21 July 1987, before the uprising began.

At the time of his death, 'Awad Hamdan, a Palestinian from the Jenin District of the West Bank, was being interrogated by GSS officers.²³⁰ Initially, there was some doubt as to whether Mr. Hamdan's family would be informed of the cause of death. In a letter to the Israeli High Court of Justice, then Israeli Defence Minister Yitzhak Rabin expressed the opinion that this information should not be given: "presenting evidence ... on the matter of the investigation methods of the General Security Service is liable to harm national security."²³¹ The Israeli High Court ruled that the medical findings should be disclosed. According to the Israeli State Attorney, Mr. Hamdan died of "asphyxia due to suffocation." The State Attorney added that the death was "apparently caused by negligence,"²³² and recommended that "the relevant GSS man be brought to trial for the crime of causing death by negligence." The exact circumstances of Mr. Hamdan's death were never made public. However, the discussion surrounding his case strongly points towards the use of asphyxiation as a formal method of interrogation approved by the GSS.

e) Psychological Coercion

Practices discussed above, such as hooding and isolating the detainee, denial of food, water, and access to toilets all have been recognized as constituting forms of psychological torture and ill-treatment by international judicial bodies.³⁶ In addition to these practices, Palestinians under interrogation have also been subjected to blackmail and threats. These include threats: to kill the detainee; to sexually assault the detainee; to arrest and assault family members; to demolish the detainee's home or his family's home; and to deport the detainee or subject him to prolonged detention without charge or trial.

³⁶ See Chapter 2 for a review of the relevant cases.

Many of these threats were used against Riyad Mahmoud 'Ali Bdeir, a 42-year-old teacher from the West Bank town of Toulkarem, while he was under interrogation in the Toulkarem Military Detention Center in July 1989:

One of [the interrogators] told me "We've got your wife, she's in the next room." ... [In the background] I could hear the voice of a woman but not clearly because the door to the interrogation room was tightly closed. They [the interrogators] started threatening me, telling me that if I did not confess that they would have their way with my wife.

Mr. Bdeir did not confess; the next day one of the interrogators, an Israeli intelligence officer known as "Abu-Mousa" told him that they had arrested his 15-year-old daughter:

"Abu-Mousa" began cursing, then he said to me, "It seems you are not possessive of your wife, so we brought in your eldest daughter, the 15-year-old, and we will do whatever we want to her if you do not confess," clearly implying that they would sexually assault her. After a while I heard the voice of a girl screaming "Baba, Baba"³⁷ from the next room.

When Mr. Bdeir still refused to confess, "Abu-Mousa" threatened to rape him:

["Abu-Mousa"] threatened that he would rape me if I did not confess. He took down my pants and underwear and after threatening me for some time, he changed his mind and left me in the room on my own. I was shaking with anger at what he did ... I found out after my release that they never arrested my wife or my daughter, it was all just part of the psychological war ...²³³

Mr. Bdeir was released without charges on 9 August 1989, following one month of interrogation.³⁸

In a few cases family members have in fact been arrested. For example, Nizar Nasr-al-Din Saleh Limallah, a 27-year-old resident of 'Ein Qiniya in the Ramallah District, was interrogated in Ramallah Prison in April 1991. During his fourth week under interrogation his father was

³⁷ "Baba" is the Arabic word for papa.

³⁸ For more on this case see the section on levels of torture and ill-treatment below.

arrested. Mr. Limallah and his father were then transferred to al-Dahriyya Military Detention Center where they were held in the same cell for a week. The following description is excerpted from Mr. Limallah's sworn statement:

... [my] lawyer, Shaher al-'Arouri, visited me and informed me that my father had been arrested. That evening I was brought before "Eric" [an intelligence officer] who said: "There are people who said things about you. You are a liar, and they are honest." I said: "I am honest, but you are a liar." He took a picture out of his pocket and shouted: "Is he a liar too?" It was a picture of my father in prison uniform ... [shortly thereafter] I was transferred to al-Dahriyya with my father where we were put in the same cell together. A week later my father was released.²³⁴

In addition to arresting Mr. Limallah's father, interrogators threatened to arrest Mr. Limallah's wife and torture her and to administratively detain him for a prolonged period if he did not confess.²³⁵ In fact, when Mr. Limallah did not confess, an order to detain him without charge or trial for three months was issued. He served this period of administrative detention in Ansar III Military Detention Center and was released on 24 September 1991.

An example of a threat to demolish a detainee's house, along with other forms of psychological coercion, occurred during the interrogation of Muhammad Husein Hassan Jabarin, a 39-year-old carpenter from the village of Sa'ir in the Hebron District. Mr. Jabarin was interrogated in Hebron Prison by an intelligence officer who called himself "Gabi." While interrogating Mr. Jabarin, "Gabi":

... threatened to have my home demolished ... [he also] threatened to deport me [and to] ... arrest my wife and daughter and sexually assault them in front of me.²³⁶

In a few cases, detainees reported being forced to listen to the screams of others before interrogation sessions. For example, 'Abd-al-'Aziz Abd-al-Rahman Mahmoud Rihan, a 29-year-old Gaza Municipality employee from the town of Jabaliya in the Gaza Strip, reported that immediately prior to his first interrogation session in Gaza Central Prison:

I was seated on a chair for about five or six hours, during which I heard the sounds of horrible screams. Then I was taken to a room in which there was one interrogator ...²³⁷

The documentation indicates that these and other forms of psychological coercion were quite common in the interrogation of Palestinian detainees.³⁹ As noted above, 46 percent of those former detainees interviewed by al-Haq reported being subjected to psychological coercion. In al-Haq's opinion, it is likely that this figure underestimates the actual use of this measure. Al-Haq bases this view on a number of factors, the majority of which relate to the difficulty of documenting threats and other techniques whose primary impact is psychological. This is particularly true given the widespread use of the three other measures reviewed above which have more direct physical effects.

Al-Haq's findings on the frequency of the use of threats appears to be shared by other humanitarian organizations concerned with the treatment of persons in custody. In a press release issued in May 1992, the ICRC noted that it had "in particular urged the [Israeli] authorities to prohibit all forms of ill-treatment, including insults and threats ..." Given the rareness of such public statements, it would seem that the ICRC shares al-Haq's view of the commonness of these techniques. Further, since the Landau Commission approved the use of threats during interrogation, it is fair to assume that interrogators may view this method as among the techniques they are permitted to use in the questioning of Palestinians.

4. Installations and Equipment

Certain of the interrogation techniques documented in the course of al-Haq's field research involved the use of installations which appeared to be built into the interrogation centers. These installations consisted of small enclosed spaces, some constructed with cement ledges used as seats, described by former detainees as resembling "cupboards" and "closets." Similar spaces, described as very cold even during the hot summer months, known as "refrigerators," were also reported. Less elaborate

³⁹ The use of blackmail as an interrogation technique is also common, particularly as a form of pressure to induce detainees to collaborate with the Israeli authorities. This practice is discussed in the section on levels below.

- fixtures, such as pipes embedded in the walls, to which detainees were often tied during *shabeh*, were documented in addition to equipment such as hoods, which at the very least were kept in large supply and consistently used, if not specifically constructed for the interrogation process. These are examined below and illustrated with representative examples documented in the course of al-Haq's field research.

a) "Closets" and "Refrigerator" Cells

Former detainees questioned in interrogation centers in IPS prisons in Jenin, Ramallah, Hebron and Gaza, as well as in the interrogation sites in the Israeli Military Government Compound in Toulkarem, al-Dahriyya Military Detention Center and al-Moscobiyya jail, recounted being enclosed in closet or cupboard-like spaces.

These spaces appear to vary in size from approximately 70 centimeters wide by 70 centimeters deep and one meter in height, to one meter squared by two meters in height. None of these enclosures are reported to have windows; most do not appear to have light fixtures. A number were described as having a cement ledge built into the back wall of the enclosure upon which the detainee is often seated. In general, the doors fit tightly closed, and in some cases were reported to be made of iron, or some type of thick metal. In some instances, detainees reported seeing an aperture in the door or a gap between the bottom of the door and the floor which permitted air to enter the enclosure. The following list of examples provide descriptions of these installations in different interrogation centers:

- Ayyoub 'Ali Ya'qoub Abu-'Atiyya, a 33-year-old resident of al-Am'ari Refugee Camp, was repeatedly held in a closet-like space in Ramallah Prison while under interrogation in February 1990. According to Mr. Abu-'Atiyya: "the closet measured about 80 centimeters by 80 centimeters, and was roughly two meters in height and had a cement seat ... it had no source of lighting and was dark ..." ²³⁸
- Nawwaf Taleb 'Abd-al-Hadi al-Mtour, a 23-year-old worker from the village of Sa'ir, was held in more than one "closet" for varying lengths of time in Hebron Central Prison while under interrogation there in October 1990. He provided the following description of one of these spaces: "I was taken to a room, approximately one meter by 80 centimeters, by two meters in size, similar to a closet. It had no light

and had an iron door. I was tied to a very small chair like the ones used for children ...”²³⁹

- ‘Abd-al-Karim Khaled Rashid Mansour, a 22-year-old worker from Jenin Refugee Camp, was enclosed in a closet-like space for five days during his interrogation in Jenin Prison in November 1989. According to Mr. Mansour the: “closet was one meter by 60 centimeters and about two meters in height. There was a chair in it. It had a small aperture in the door and was dark.”²⁴⁰
- Riyadh Muhammad ‘Ali Bdeir, a 42-year-old teacher from the town of Toulkarem, was held for four hours in a small enclosed space during questioning in the interrogation center in the Israeli Military Government Compound in Toulkarem in July 1989. He was hooded when first placed in the “closet.” According to his sworn statement: “by rubbing my head against the wall, I was able to lift the hood a little and I saw that I was in a very small cell, about 70 centimeters long and 70 centimeters wide. It was very dark and was without ventilation except for a very small opening under the door.”²⁴¹
- Maher Saleh E’leiyyan Erfa’iyya, a 21-year-old worker from the city of Hebron, was held for a number of hours in a small cupboard-like enclosure in al-Dahriyya Military Detention Center while undergoing interrogation there in March 1992. Mr. Erfa’iyya reported: “I was put in a small room the size of which did not exceed one meter by 50 centimeters. I was neither blindfolded nor handcuffed. Inside the room there was an approximately 20-centimeter-thick cement ledge coming out from the wall. I sat on this cement block until ... one of the soldiers pushed open the iron door of the room, handcuffed me to the back with iron handcuffs and covered my head with a hood made of cloth ...”²⁴²
- Najib Ibrahim Abd-al-Muhsen Farraj, a 30-year-old journalist from Dheisha Refugee Camp, was held for seven days in “a small dark room, similar to a closet” while under interrogation in al-Moscobiyya Jail in May 1989.²⁴³ Immediately upon being seated in this room he was handcuffed and hooded.²⁴⁴
- Sa’id Muhammad Salama ‘Ammar, a 26-year-old resident of Khan Younes Refugee Camp, was held in an enclosure which he likened to a “coffin” while he was under interrogation in Gaza Central Prison in September 1988. Mr. ‘Ammar described the coffin as “approximately

one meter by one meter and about one-and-a-half meters in height,” and noted that it was “very hot” inside.²⁴⁵

In some cases, detainees reported having trouble breathing due to inadequate ventilation in such enclosures. Amjad ‘Abd-al-Wahed Musa Hamid, a 17-year-old student from the village of Beit Sahour, was held for over two days in a closet-like enclosure in al-Dahriyya Military Detention Center while under interrogation in May 1991. According to Mr. Hamid:

[the interrogator] put me in the closet ... I felt that I was unable to breathe so I began knocking on the door to the closet. “Abu Jabal” [the interrogator] asked what I wanted. I said I wanted to get out. He hit me in my face and on my head and closed the door again.²⁴⁶

In a number of cases, detainees reported that in addition to limited ventilation, such spaces reeked of urine and human feces, apparently due to a refusal to permit previous detainees out of the enclosure to use toilet facilities.²⁴⁷ Ra’ed Sari ‘Abd-al-Qader Khalil, a 19-year-old resident of the village of Beit Iba in the Nablus District, reported that during the questioning process in the interrogation center in the Israeli Military Government Compound in Toulkarem:

... I was taken by a guard to a very small cell, called by the prisoners the “coffin”, where I was seated on a chair ... The floor was littered with human feces and the smell was horrible. I was closed in for about half an hour during which I had difficulty breathing due to the foul odor and the lack of circulation.²⁴⁸

“Refrigerator” cells appear to be much the same as closets and cupboards. The central difference between these two types of enclosures seems to be that cold air is blown into “refrigerator cells” through airvents in the ceilings. Musa Hadid, a 27-year-old from the Ramallah District, reported being held in one such enclosure while under interrogation in Ramallah Prison in July and August 1991. He described the enclosure as:

about 70 centimeters by 70 centimeters in size, very dark and [it] had no windows. In the ceiling there were two apertures through which cold air was blowing ... I stayed there all night ... sitting on a built-in cement seat ... with my hands bound behind my back but ... [with] my

head uncovered. The air conditioning was working all night and it was extremely cold.²⁴⁹

According to al-Haq's documentation, such "refrigerator" cells also exist in Gaza Central Prison. As illustrated by the next two examples, they are reported to be extremely cold regardless of the time of year:

- In September 1991, during questioning in Gaza Central Prison a 22-year-old student reported being enclosed in a space which he estimated to be 90 centimeters squared; he added that "I heard the sound of an airconditioner coming from the ceiling ... It was dark [in the cell] and I felt very cold ..."²⁵⁰
- In January 1989 while under interrogation in Gaza Central Prison, a 23-year-old former detainee reported being put in a closet where "... it was very cold ... I could hear the sound of an air conditioner."²⁵¹

The documentation further indicates the presence of more than one of these small enclosed spaces (whether "closets" or "refrigerator" cells) in at least some of the different interrogation centers. For instance, one former detainee, interrogated in Ramallah Prison in 1991, reported being led unhooded:

to the end of a corridor, along which were interrogation rooms, to where there were three small cells called "cupboards" or "closets".²⁵²

He further described these cells as having doors like "refrigerator doors" and noted that they were "tightly closed."²⁵³ Reports by former detainees also point towards the existence of more than one "refrigerator" cell. Gaza Central Prison is reported to have at least two such cells, with one somewhat larger than the other. 'Abd-al-'Aziz Mahmoud Rihan, a 29-year-old employee of the Gaza City municipality, reported being held in two such cells -- which he estimated to be of different sizes -- while he was under interrogation in Gaza Prison in January 1989. According to Mr. Rihan's sworn statement, after being hooded and handcuffed he was taken:

somewhere [and] seated on a chair ... After a while I felt very cold, and my body began to shiver a lot, and my teeth began to knock together. Through my movement I realized that I was in a very small

room ... [after an interrogation session] I was sent to another refrigerator, which was wider and less cold than the first one.²⁵⁴

Different sized enclosures were also reported in other interrogation centers. While some differences in sizes of these spaces reported by former detainees could be attributable to the stress the detainee was under at the time and simple differences in estimates, in some cases the disparity is so wide as to clearly point towards two different enclosures. For example, Sabri Muhammad Isma'il Tmeizi, a 28-year-old worker from the town of al-Bireh, was held for an hour in a small cupboard-like enclosure in al-Dahriyya Military Detention Center while undergoing interrogation there in December 1988. Mr. Tmeizi reported: "I was put in a very dark cupboard approximately 50 centimeters by 70 centimeters for a whole hour."²⁵⁵ While Sami Khaled Hassan Kifaya, an 18-year-old worker from al-Am'ari Refugee Camp, who was also interrogated in al-Dahriyya, reported being held in "a cupboard approximately one meter by one meter thirty centimeters which only had a seat made of cement in it. The cupboard itself was also made of cement and had a metal door four centimeters above the ground. It was dark ..."²⁵⁶ These reports clearly describe different-sized enclosures.

b) Other Fixtures and Equipment

Metal pipes or bars to which detainees were tied during *shabeh* were reported in a number of interrogation centers, particularly those located in IPS prisons and police jails. For example, Basel Qasem 'Abdallah Nofal was tied by his handcuffs to "a pipe embedded in the wall" of the interrogation section of Nablus Central Prison while he was undergoing questioning there in June 1990.²⁵⁷ Some of these bars appear to be affixed to walls on the interior of interrogation centers, while others are reported to be located outside in the yards of many such centers. As illustrated by the following examples, the height of these bars appears to vary from ground-level (used to attach footcuffs) to waist-level and higher:

- In the interrogation wing of Gaza Central Prison, Tawfiq Muhammad 'Abd-al-Rahman al-Mabhouh (a 48-year-old construction worker from Jabaliya Refugee Camp) was held for 24 hours in the following position: "hands cuffed behind my back and tied to a pipe fixed to a

wall, with each of my feet cuffed separately, about a meter apart and attached to another fixture coming out of the wall.”²⁵⁸

- While under interrogation in al-Moscobiyya Jail, Najib Ibrahim ‘Abd-al-Muhsen Farraj (a 30-year-old journalist from al-Dheisha Refugee Camp), reported being held seated in a yard in the interrogation wing for 18 hours with his hands “tied behind ... back with a heavy chain which was attached to a pipe fixed to the wall.”²⁵⁹
- In the yard in the interrogation section of Petah Tikva Jail, Nidal Muhammad Sa’id Abu-Lawi (a 28-year-old civil engineer from Rafidiya) was seated on a chair for five to six hours in the rain with his “hands tied behind ... [him] to a pipe fixed to the wall.”²⁶⁰
- During the interrogation process in Hebron Central Prison, Muhammad Hassan Jebarin (a 39-year-old carpenter from the village of Sa’ir in the Hebron District) was forced to stand for 48 hours with his hands “cuffed behind ... [his] back and tied to a pipe attached to the wall” in a corridor in the interrogation wing of the prison.²⁶¹

Although whether such fixtures are exclusively for use in illegal interrogation techniques is not self-evident, these and other examples make clear that they are consistently used for such purposes.

Similarly, while it cannot be conclusively stated that equipment such as hoods are specially constructed for use during interrogation, it is clear that sacks of appropriate sizes are kept in consistent supply in Israeli interrogation centers in the OPTs and inside Israel. These facts raise serious questions as to where such hoods are obtained and to whether they are in fact specially made for the interrogation process.

There is no question that the “closets” or “cupboards” and refrigerator cells reviewed above are specially constructed. The documentation makes clear both the existence and purpose of these installations. It must be noted that the use of similar installations in the interrogation of Palestinians was documented in the late 1970’s by U.S. consulate officials in Jerusalem. In 1978, U.S. consular officials reported “a row of several small ‘refrigerator’ cells” in Nablus Central Prison, into which Palestinians under interrogation had been placed.²⁶² As noted at that time by similar consular officials:

Bureaucratically the construction of such “refrigerator” cells ... would be a formidable enterprise. Administrative operations involved would

certainly have included the making of proposals for discussions and approval, followed by the allocation of funds, signing of requisitions for materials and so forth ... these installations would also require maintenance.²⁶³

These considerations are equally applicable to the construction and maintenance of the "closets" and "refrigerator" cells documented in the course of al-Haq's field research. In this regard the possibility that approval and appropriations for such construction may well have involved the Israeli agency responsible for the detention facility itself as well as the body in charge of the interrogation center must be noted.

Endnotes

¹ United Nations Special Rapporteur on Torture, *Report by the Special Rapporteur, Mr. P. Kooijmans, Appointed Pursuant to Commission on Human Rights Resolution 1985/33* (UN doc. E/Cn.4/1986/15), para. 99.

² *Ibid*, para. 98 and para. 100.

³ According to the 1991 *Statistical Abstract of Israel*, as of 1990, the most recent date for which such information is available, there were 335,600 Palestinian males between the ages of 15 and 54 residing in the Occupied Territories. Israeli Central Bureau of Statistics, *Statistical Abstract of Israel 1991*, No. 42 (Jerusalem: Government of Israel, 1991), Chart No. 27.3.

⁴ Middle East Watch, *Prison Condition in Israel and the Occupied Territories* (New York: Human Rights Watch, 1991), p. 1.

⁵ "Israel Tortures Arab Prisoners: Special Investigation by Insight," *Sunday Times*, 19 June 1977. Reprinted in *Israel and Torture*, (Washington: Free Palestine Press, 1977), p. 9.

⁶ *Report of the Special Rapporteur, Mr. P. Kooijmans, Pursuant to Commission on Human Rights Resolution 1990/34*, UN Doc. E/C 4/1991/17, para. 291; para. 303(b). The Special Rapporteur further recommended that incommunicado detention be declared illegal. *Ibid*.

⁷ See Chapter 4 for a discussion of this practice.

⁸ See: Article 43 of the Regulations annexed to the 1907 Hague Convention (IV) Respecting the Laws and Customs of War on Land. A. Roberts and R. Guelff, *Documents on the Laws of War* (New York: Oxford University Press, 1982), pp. 55-56.

⁹ Article 208(1) of the Jordanian Penal Code of 1960.

¹⁰ Articles 208(1) and 208(2) of the Jordanian Penal Code of 1960.

¹¹ See: Jean S. Pictet, (ed.), *Commentary: Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958), p. 70 (referred to as "Commentary" hereunder).

¹² See: Criminal Case No. 40/61, The Attorney-General of the Government of Israel v. Eichmann, excerpted in Covey Oliver, "Jurisdiction of Israel to Try Eichmann: International Law in Relationship to the Israeli Nazi Collaborators (Punishment) Law," 56 *American Journal of International Law*, p. 818, (1962).

¹³ Israel signed the Geneva Conventions on 8 December 1949, and subsequently ratified them on 6 July 1951.

¹⁴ Article 6 (b), Charter of the Nuremberg International Military Tribunal.

¹⁵ Article 147, Fourth Geneva Convention.

¹⁶ Article 146, Fourth Geneva Convention.

¹⁷ Article 32, Fourth Geneva Convention.

¹⁸ Article 31, Fourth Geneva Convention.

¹⁹ Pictet, *Commentary*, p. 220. Pictet notes that the only limitation on this provision is an "unspoken reservation" which permits the use of coercion for "the application of measures taken under the Convention." *Ibid.*

²⁰ See the discussion of this point above the accompanying note. The 1945 Charter of the International Military Tribunal at Nuremberg is widely recognized to the declaratory of customary international law. It is based on the 1907 Hague Convention (IV) Respecting the Laws and Customs of War on Land (hereinafter Fourth Hague Convention of 1907). The 1945 Nuremberg Charter recognized the Fourth Hague Convention of 1907 as declaratory of customary international law. Subsequently, on 11 December 1946, the United Nations General Assembly unanimously affirmed the principles contained in the 1945 Nuremberg Charter as "principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgement of the Tribunal." [United Nations General Assembly Resolution 95(1), in Djonovich (ed.), *United Nations Resolutions Series 1, Resolutions of the General Assembly* Vol. 1, 1946-48 (Oceania Publications Inc., 1972), p. 175.

²¹ For a discussion of Israel's position see: Yehuda Blum, "The Missing Reversioner: Reflections on the Status of Judea and Samaria," 3 *Israel Law Review*, pp. 279, 281-295 (1968).

²² Article 35, Israeli Military Proclamation Number 3, 7 June 1967.

²³ See: Raja Shehadeh, *Occupier's Law: Israel and the West Bank*, Rev. Ed. (Washington, D.C.: Institute for Palestine Studies, 1988), pp. xi-xiii.

²⁴ The views of the other High Contracting Parties to the Fourth Geneva Convention of 1949 are reflected in formal statements issued by Foreign Ministries, foreign policy statements issued by regional groups as well as United Nations Security Council and General Assembly Resolutions. See: e.g.: *Country Reports on Human Rights Practices for 1991: Israel and the Occupied Territories*, U.S. Department of State, 1992. In its Country Report for 1991, the U.S. Department of State, reiterated the position of the United States: "[t]he United States considers Israel's occupation to be governed by ... the 1949 Fourth Geneva Convention ..." See also *Resolutions and Decisions of the General Assembly and the Security Council Relating to the Question of Palestine, 1980-1981*, (United Nations Publication No. A/AC/ 183/L. 2/ADD. 2, 13 May 1982), p. 47.

²⁵ SC/Res/681 of 20 December 1990, para. 5.

²⁶ The language used in the Universal Declaration was repeated for example, in Article 5 of the UN Code of Conduct for Law Enforcement Officials of 1979 which provides that "no law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment." The UN Standard Minimum

Rules for the Treatment of Prisoners of 1977 focuses more on prohibited punishments. Article 31 of the Standard Minimum Rules bans "corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments ...".

²⁷ See generally: Louis Henkin, *International Law, Cases and Materials* (St. Paul: West Publishing Company, 1980), pp. 36-69.

²⁸ Israel ratified the International Covenant on Civil and Political Rights on 3 October 1991; the Covenant entered into force on 3 January 1976. Reprinted in: United Nations, *A Compilation of International Instruments* (New York: United Nations, 1988), pp. 18-35.

²⁹ Article 7, International Covenant on Civil and Political Rights.

³⁰ Article 4(2), International Covenant on Civil and Political rights.

³¹ Article 2(2), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Reprinted in: United Nations, *A Compilation of International Instruments* (New York: United Nations, 1988), pp. 212-226.

³² For an in-depth discussion of the nature of this obligation, see Ahcene Boulesbaa, "The Nature of the Obligations Incurred by States Under Article 2 of the UN Convention Against Torture," 12 *Human Rights Quarterly*, p. 53, pp. 55-68 (1990).

³³ Articles 2(1), 16(1), Convention Against Torture.

³⁴ *Ibid.*, p. 63.

³⁵ Adopted by the United Nations General Assembly Resolution, GA Res. 3452 (XXXX), without vote and with no reservations expressed, on 9 December 1975.

³⁶ Nigel Rodley, *The Treatment of Prisoners Under International Law*, (Oxford: Clarendon Press, 1987), p. 61.

³⁷ Articles 56 and Article 55 of the Charter of the United Nations. The UN Charter, signed in San Francisco on 26 June 1945, entered into force on 24 October 1945.

³⁸ Article 2, United Nations Declaration Against Torture.

³⁹ International Court of Justice Reporter, 16, p. 55.

⁴⁰ Theodore Meron, "Applicability of Multilateral Conventions to Occupied Territories," 72 *American Journal of International Law*, p. 542, (1978). See also Adam Roberts, "The Israeli-Occupied Territories 1967-1988: The International Legal Framework of a Prolonged Occupation," in Emma Playfair (ed.), *The Administration of Occupied Territories: The Case of the West Bank and Gaza, 1967-1987* (Oxford: Oxford University Press, 1992), p. 25.

⁴¹ Article 5(1) and 5(2) of the Convention Against Torture.

⁴² Report by the UN Special Rapporteur on Torture, UN Doc. E/CN.4/1986/15, para. 3. See also Rodley, *The Treatment of Prisoners*, p. 70, and pp. 64-70, for a review of the arguments.

⁴³ Article 53, Vienna Convention on the Law of Treaties, entered into force on 27 January 1980.

⁴⁴ Henkin, *International Law*, pp. 114-117.

⁴⁵ Article 1(2), Convention Against Torture.

⁴⁶ Article 16(1), Convention Against Torture.

⁴⁷ This view is reflected in the writings of several leading commentators who argue that the factual overlap between the two is so extensive as to make such a distinction meaningless. For example, according to Sir James Fawcett, former President of the European Commission of Human Rights: "Torture is part of inhuman treatment and either may be also degrading; and each of them may have the character of punishment."

Quoted in: J.E.S. Fawcett, *The Application of the European Convention on Human Rights* (Oxford: Clarendon Press, 1987), p. 43.

Given the extensive factual and legal similarities between torture and ill-treatment, it is clear that in many instances the choice of one classification or the other is largely a matter of semantics. However, unfortunately, "ill-treatment" does not always generate the same level of government concern or action as "torture;" therefore, in this case, semantics become important, particularly if the goal is to promote respect for human rights and fundamental freedoms.

⁴⁸ Paul Sieghart, *The International Law of Human Rights* (Oxford: Clarendon Press, 1983), p. 162.

⁴⁹ 12 Yearbook of the European Convention on Human Rights -- *The Greek Case* (1969), p. 499. Reprinted in Herbert Petzold, *The European Convention on Human Rights: Cases and Materials, A Reader for Students and Practitioners*, Fifth Ed. (Koln: Carl Heymanns Verlag KG, 1984), p. 223.

⁵⁰ *Ibid.*, *Denmark et. al. v. Greece*. See also: Sieghart, *The International Law of Human Rights*, p. 163.

⁵¹ Report of the Human Rights Committee, Official Records of the General Assembly, 37th Session, Supplement No. 40 (A/37/40), General Comment 7(16) (Article 7 of the Covenant), para. 2.

⁵² *Muteba v. Zaire*, Report of the Human Rights Committee, GAOR, 39th Session, Supplement No. 40 (1984) [Annex VIII], para. 10.2.

⁵³ *Estrella v. Uruguay*, reprinted in *Human Rights Committee: Selected Decisions Under the Optional Protocol* (New York: United Nations, 1984), p. 104.

⁵⁴ *Ibid.*

⁵⁵ *Delia Saldias v. Uruguay*, reprinted in *Human Rights Committee: Selected Decisions Under the Optional Protocol*, p. 90, para. 11.3.

⁵⁶ *Report by the Special Rapporteur*, 1985, p. 10, para. 33.

⁵⁷ *Report by the Special Rapporteur*, 1985, pp. 28-29, para. 119.

⁵⁸ Inter-American Commission on Human Rights, *Report on the Situation of Human Rights in Colombia*, reprinted in Thomas Buergenthal, Rober Norris, and Dinah Shelton, *Protecting Human Rights in the Americas*. Third Ed. (Strasbourg: N. P. Engel, 1990), p. 314.

⁵⁹ *Ibid.*, p. 794.

⁶⁰ For example, Sir James Fawcette, former President of the European Commission for Human Rights, described the Court's reasoning as "inexplicable". Fawcett, *The Application of the European Convention on Human Rights*, p. 46. Nigel Rodley, long-time legal advisor to Amnesty International and a noted international law expertk stated in a review of the Court's judgment that "[t]his is unsatisfactory reasoning from an authoritative judicial body." Rodley, *The Treatment of Prisoners*, p. 85. Finally, Amnesty International issued a press release following the Court's judgment, in which it stated:

"[o]ur organization must continue to combat torture anywhere in the world and that task makes it impossible for us to follow the restrictive standard set by the [European] Court."

Amnesty International, "International News Release," 19 January 1978, (AI Index NWS 20/04/78).

⁶¹ *Sendic (Setelich) v. Uruguay*, reprinted in *Human Rights Committee: Selected Decisions Under the Optional Protocol*, p. 104.

⁶² Buergenthal, *Protecting Human Rights in the Americas*, p. 314.

⁶³ "Report by the Speical Rapporteur", 1985, para. 119.

⁶⁴ *Ibid.*

⁶⁵ *Denmark et. al. v. Greece*. For a discussion of this point, see: Rodley, *The Treatment of Prisoners*, p. 83.

⁶⁶ *Denmark et. al. v. Greece*. For a discussion of this point, see: Sieghart, *The International Law of Human Rights*, p. 164.

⁶⁷ *Estrella v. Uruguay*, para. 8.3; *Grille v. Uruguay*, in *Human Rights Committee: Selected Decisions Under the Optional Protocol*, paras. 13-14.

⁶⁸ *Report by the Special Rapporteur*, 1985, para. 4

⁶⁹ *Ibid.*, para. 119.

⁷⁰ "Israel Tortures Arab Prisoners: Special Investigation by Insight," *The Sunday Times*, 19 June 1977. Reprinted in: *Israel and Torture* (Washington: Free Palestine Press, 1977), p. 9.

⁷¹ *Ibid.*

⁷² Information regarding these reports and many of the reports themselves were leaked to the press at the time and published in full. See e.g.: *Christian Science Monitor*, 4 April 1979. According to information leaked to the *Journal of Palestine Studies*, the Consulate Section of the American Consul-General in East Jerusalem sent over 40 reports concerning mistreatment of Palestinian political prisoners to the U.S. State Department during a 22-month period between March 1977 and January 1979. *Journal of Palestine Studies*, Vol. IX, No. 2 (Winter 1980), p. 79. Many of these reports were reprinted by the Journal. *Ibid.*, pp. 80-117.

⁷³ "Jerusalem 3239," reprinted in *Journal of Palestine Studies*, Vol. IX, No. 2 (Winter 1980), p. 98.

⁷⁴ *Ibid.*, p. 97.

⁷⁵ *Ibid.*, p. 99.

⁷⁶ *Newsweek Magazine*, 14 February 1983, quoted in al-Haq, *Torture and Intimidation in the West Bank: The Case of Al-Far'a Prison* (Ramallah: al-Haq, 1984), p. 3. Evidence given in Jaffa Military Court by Captain Artzi Mordechai, an Israeli operations officer serving in the West Bank when the policy of "population *turtur*" was implemented, confirmed the indiscriminate nature of the mass round-ups reported by *Newsweek*:

In addition to this business where we work to discover the provocateurs, you *turtur* the population. Population *turtur* does not mean that you punish those who did something, but you simply round-up everyone, just like that.

Ibid., p. 3.

⁷⁷ Al-Haq Affidavits signed on 14 April 1984, and 30 April 1983. Reprinted in full in: al-Haq, *Torture and Intimidation in the West Bank*, pp. 14-21.

⁷⁸ Al-Haq, *Torture and Intimidation in the West Bank*, p. 5.

⁷⁹ *Ibid.*, p. 22.

⁸⁰ *Jerusalem Post*, 26 March 1984.

⁸¹ Amnesty International, *Torture in the Eighties* (London: Amnesty International, 1984), pp. 233-234.

⁸² Shehadeh, *Occupier's Law*, p. 235.

⁸³ "Confessions to Interrogators Not a Legal Basis for Conviction, Excerpts from the Judgement of the Israeli High Court of Justice in the Nafsu Case, *Jerusalem Post*, 26 May 1987.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ "Report of the Commission of Inquiry into the Methods of Interrogation of the General Security Service Regarding Hostile Terrorist Activity (hereinafter "the Landau Commission Report"), Israeli Government Press Office (official translation), 30 October 1987, Para. 1.1, 2.1.

⁸⁷ Asher Walfish, "Cabinet Set Up Watchdog Group Over Shin Bet," *Jerusalem Post*, 9 November 1987.

⁸⁸ See for example, Jordan J. Paust, Gerhard Von Glahn, and Gunter Woratsch, *Inquiry into the Israeli Military Court System in the Occupied Territories: Detention, Interrogation and Trial Procedures* (London: Amnesty International, 1991).

⁸⁹ *The Landau Commission Report*, para. 1.1.

⁹⁰ *Ibid.*, para. 2.21. See also Asher Walfish, "Decision-Makers and the GSS -- 'Let Sleeping Dogs Lie'," *Jerusalem Post*, 10 November 1987.

⁹¹ *Ibid.*, para. 2.27.

⁹² Specifically, the Landau Commission stated that "it can be assumed that the majority of trials in which false testimony was given about methods of interrogation took place in the military courts in the territories." [*Ibid.*, para. 4.30.] Such courts exercise jurisdiction over Palestinians of the Occupied Territories charged with security offenses. See Paust, *Inquiry into the Israeli Military Court System*, pp. 12-16.

⁹³ *Ibid.*, para. 2.5.

⁹⁴ *Ibid.*, para. 4.20.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*, para. 2.26.

⁹⁷ Article 277 (1) and (2) of the Israeli Penal Law of 1977.

⁹⁸ *Ibid.*, para. 4.20.

⁹⁹ *Ibid.*, para. 4.5.

¹⁰⁰ *Ibid.*, para. 4.13.

¹⁰¹ *Ibid.*, para. 4.6.

¹⁰² *Ibid.*, para. 3.16.

¹⁰³ *Ibid.*, para. 4.7.

¹⁰⁴ *Ibid.*, para. 4.8. Judge Landau later confirmed this in statements to the press: "Landau revealed that the report's secret section stipulated clearly how much pressure interrogators may apply ..." (*Jerusalem Post*, 14 January 1988).

¹⁰⁵ *Ibid.* paras. 4.19, 4.19(C).

¹⁰⁶ *The Landau Commission Report*, para. 4.13.

¹⁰⁷ International Committee of the Red Cross, "Israel: ICRC Position on Treatment of Palestinian Detainees Under Interrogation," Press Release No. 1717, 21 May 1992, p.2.

¹⁰⁸ For a detailed discussion of the due process violations permitted by Israeli military orders relating to arrest and detention powers, see Paust, *Inquiry into the Israeli Military Court System*, pp. 19-28.

¹⁰⁹ The timing for notification of arrest, and visitation was established in a 1979 agreement between the ICRC and the Israeli government. See International Committee of the Red Cross, *Annual Report 1979* (Geneva: International Committee of the Red Cross, 1980), p. 51.

¹¹⁰ UN Special Rapporteur on Torture, 1985, para. 100.

¹¹¹ Al-Haq, *Briefing Papers on Twenty Years of Israeli Occupation of the West Bank and Gaza* (1987), p. 20; al-Haq, "Briefing Paper No. 12" (May 11, 1988); al-Haq, *Punishing a Nation: Human Rights Violations during the Palestinian Uprising*. December 1987 - December 1989; and al-Haq *A Nation Under Siege*, (Ramallah: al-Haq, 1990). Other human rights observers have reached the same conclusion. For example, in its 1991 Report on the Israeli military justice system in the Occupied Territories, Amnesty International reported that *habeas corpus* motions are "invariably treated ... as requests for release on bail ... therefore there is no *habeas corpus* remedy available to detainees of the Occupied Territories." (Amnesty International, "The Military Justice System in the Occupied Territories," p. 27).

¹¹² *The Landau Commission Report*, para. 3.19.

¹¹³ This was the case even prior to the adoption of the Landau Commission Report. See Paul Hunt, *Justice? The Military Court System in the Israeli-Occupied Territories* (Ramallah: al-Haq, Gaza Center for Rights and Law, 1987), pp. 28-30. For examples of the findings of independent monitors who reached the same conclusion in the period following the publication of the Landau Commission Report see Amnesty International, *The Military Justice System in the Occupied Territories*, p. 67; Paust, *Inquiry into the Israeli Military Court System*, pp. 32-33; B'Tselem, *The Interrogation of Palestinians During the Intifada: Ill-Treatment, "Moderate Physical Pressure" or Torture?* (Jerusalem: B'tselem, 1991), p. 18.

¹¹⁴ *Ibid.* For more on the mini-trials see also: al-Haq, *A Nation Under Siege*, p. 250.

¹¹⁵ Article 10A(a) of the 1971 Evidence Ordinance (as amended in 1979).

¹¹⁶ Article 9 of Israeli Military Order No. 378 "Orders Concerning Security Provisions," of 20 April 1970.

¹¹⁷ *Ibid.*, para. 4.8.

¹¹⁸ Article 1 of Israeli Military Order No. 101 (as amended by M.O. No. 718) "Order Concerning the Prohibition of Incitement and Adverse Propaganda," of 27 August 1967.

¹¹⁹ *Ibid.*

¹²⁰ Israeli Military Order No. 50 "Order Concerning Bringing in of Newspapers and their Distribution," of 11 July 1967.

¹²¹ Israeli Military Order No. 101.

¹²² *Ibid.*

¹²³ *Ibid.*, as amended by Israeli Military Order No. 1079.

¹²⁴ Article 85 of the British Defence (Emergency) Regulations.

¹²⁵ Israeli Military Order No. 101.

¹²⁶ Israeli Military Order No. 378.

¹²⁷ *Ibid.*, p. 21.

¹²⁸ Shehadeh, *Occupier's Law*, p. 112.

¹²⁹ ICRC Press Release No. 1717, 21 May 1992, p. 2.

¹³⁰ R. Shapira and U. Nier, "Police: The Interrogators of 'Akkawi Did Not Commit Any Crime, Recommended to Close File," *Ha'aretz*, 13 February 1992.

¹³¹ "Israeli Interrogators Cleared in Arab's Death," *The New York Times*, 14 February 1992.

¹³² *Hadashot*, 16 March 1988, quoted in "Selections from the Hebrew Press," Israeli Government Press Office, 16 March 1988.

¹³³ *The Landau Commission Report*, para. 4.19.

¹³⁴ Asher Walfish, "Decision-Makers and the GSS 'Let Sleeping Dogs Lie'," *Jerusalem Post*, 10 November 1987.

¹³⁵ *Ibid.*

¹³⁶ See, e.g. al-Haq, "Ansar III: A Case for Closure," 1988: al-Haq, *Protection Denied* (Ramallah: al-Haq, 1991), pp. 155-169. See also US Lawyers Committee for Human Rights, "An Examination of the Detention of Human Rights Workers and Lawyers from the West Bank and Gaza and Conditions of Detention at Ketziot," issued December 1988.

¹³⁷ See, e.g.: *Denmark et. al. v. Greece*, discussed in Chapter 2 of this report. Also see Chapter 2 with respect to torture and ill-treatment in other stages of the incarceration process.

¹³⁸ *Jerusalem Post*, 20 January 1988.

¹³⁹ For background information on the "beatings policy" during 1988 and 1989 see: al-Haq, *Punishing a Nation*, pp. 13-19; and al-Haq, *A Nation Under Siege*, pp. 32-39.

¹⁴⁰ *Military Prosecutor v. Yitzhaq Ron, Ariyey, Yitzhaq and David*, 25 May 1989, Israeli Regional Military Court, Southern Judicial District, File DR 248/88, para. 18 (unofficial translation from the Hebrew original).

¹⁴¹ Letter from IDF Chief of Staff to Israeli Army Commanders, 12 September 1989. Quoted in Amnesty International, *The Military Justice System in the Occupied Territories*, p. 47.

¹⁴² *Ibid.*

¹⁴³ Al-Haq Affidavit No. 3233.

¹⁴⁴ *Ibid.*

¹⁴⁵ Al-Haq Affidavit No. 3203.

¹⁴⁶ *Ibid.*

¹⁴⁷ Al-Haq Affidavit No. 3407.

¹⁴⁸ Al-Haq Affidavit No. 3231.

¹⁴⁹ *Ibid.*

¹⁵⁰ *Ibid.*

¹⁵¹ Sworn statement appended to al-Haq Questionnaire No. 91/1172.

¹⁵² Medical Report issued by Assaf Hardfeh Medical Center, Zerifin, General Intensive Care Unit, 24 August 1990.

¹⁵³ Medical Report issued by al-Maqased Islamic Charitable Hospital, 2 September 1990; Dr. Yaser al-Ramli, Surgical Resident.

¹⁵⁴ Al-Haq Affidavit No. 3222.

¹⁵⁵ *Ibid.*

¹⁵⁶ Al-Haq Questionnaire No. T369.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ Al-Haq Questionnaire No. T265.

¹⁶⁰ *Ibid.*

¹⁶¹ *Ibid.*

¹⁶² Al-Haq Questionnaire No. T263.

¹⁶³ *Ibid.*

¹⁶⁴ Al-Haq Questionnaire No. T356.

¹⁶⁵ *Ibid.*

¹⁶⁶ Al-Haq Affidavit No. 3425.

¹⁶⁷ Al-Haq Affidavit No. 3425. In addition to prolonged beatings and beatings on the genitals, this illegal treatment included forcing Mr. Abu-Ghali to stand in a yard hooded and handcuffed for extended periods of time, holding him in a small cell which reeked of

excrement, and pouring a container (left in the cell to be used as a toilet) filled with urine over him.

¹⁶⁸ *Ibid.*

¹⁶⁹ Al-Haq Questionnaire No. T323.

¹⁷⁰ *Ibid.*

¹⁷¹ Al-Haq Affidavit No. 3402.

¹⁷² The forms of *Shabeh* used during the initial period of detention tend to be more limited, and generally less extreme than those used against persons under interrogation. See Chapter 5 for a full discussion of these later forms.

¹⁷³ Al-Haq Affidavit No. 3307.

¹⁷⁴ Al-Haq Affidavit No. 3307.

¹⁷⁵ Al-Haq Affidavit No. 3222.

¹⁷⁶ Al-Haq Affidavit No. 3222; also see al-Haq fieldwork report of interviews with Mahmoud Zarara and Yousef Sharif.

¹⁷⁷ Al-Haq Affidavit No. 3222.

¹⁷⁸ Al-Haq Affidavit No. 3412.

¹⁷⁹ Al-Haq Affidavit No. 3406.

¹⁸⁰ Al-Haq Affidavit No. 3445.

¹⁸¹ Al-Haq Affidavit No. 3445.

¹⁸² Al-Haq Affidavit No. 3402.

¹⁸³ See: Middle East Watch, *Prison Conditions in Israel and the Occupied Territories* (New York: Human Rights Watch, 1991), p. 23.

¹⁸⁴ There are some indications that, as of 1992, supervision of military detention centers rests specifically with the Israeli Military Police. See: B'Tselem, *The Interrogation of Palestinians During the Intifada, Follow-Up to March 1991*, B'Tselem Report (Jerusalem: B'Tselem, 1992), p. 19. (Hereafter, "Follow-up Report").

¹⁸⁵ The participation of the GSS in the interrogation of Palestinians in military detention centers during the four-and-a-half years under consideration was strongly indicated by the Vardi Report, portions of which were made public by the Israeli military in August 1991. [See: IDF Press Release, 13 August 1991. Reprinted in part in B'Tselem, Follow-Up Report, pp. 18-19.] The Vardi Report was the result of an official inquiry headed by Major General Rafael Vardi, conducted in May and June of 1991, into complaints of torture and ill-treatment of Palestinians under interrogation in Israeli military interrogation centers in the West Bank and Gaza Strip. The Vardi Report included a number of recommendations, some of which pertained to clarifying responsibility for the interrogation of Palestinians in military detention facilities:

the report recommends that the responsibility for interrogating residents of Judea, Samaria [e.g. the Occupied West Bank] and the Gaza Strip be transferred from the IDF which is not meant to interrogate civilians. As an alternative the report recommends that the boundaries of responsibility in this matter between the IDF and other bodies in the security establishment be clarified, by establishing that the IDF assume complete supervisory and professional responsibility for military interrogation facilities. (Emphasis added). (IDF Press Release, 13 August 1991).

Thus, it is fair to conclude that the IDF had not previously exercised sole "supervisory and professional" control over military interrogation centers. This admission together with persistent eyewitness reports by former detainees of the participation of GSS officers in interrogations very clearly suggest a GSS role in questioning conducted in military interrogation units. However, as of 1992 the recommendations of the Vardi report with respect to clarifying responsibility for interrogation had not been implemented. According to reports in the Israeli press in 1992, then Military Judge Advocate-General, Brig.-General Ilan Schiff "indicated that the General Security Service is still reluctant to assume full responsibility for ... interrogation of intifada related cases, which would relieve the IDF of a burden it is unequipped to handle." (Alon Pinkas, "IDF May Not Use Force on Prisoners," *Jerusalem Post*, 17 April 1992).

¹⁸⁶ There are some reports indicating that since July 1991, all interrogators working in military detention facilities may be subordinated to the Chief Officer of the Israeli Military Police (the specific branch of the Israeli military responsible for military detention centers, according to answers given by the IDF Spokesperson to specific questions posed by B'Tselem). (See: B'Tselem, Follow-Up Report, p. 19).

¹⁸⁷ Middle East Watch, *Prison Conditions*, p. 27.

¹⁸⁸ See: Middle East Watch, *Prison Conditions in Israel and the Occupied Territories*, (New York: Human Rights Watch, 1991), p. 11.

¹⁸⁹ Al-Haq Field Work Report. According to reports by former detainees, the interrogation of Palestinians in Petah Tikva (particularly during 1989 and 1990) was largely reserved for intensive interrogation by the GSS of persons thought to play a key role in the uprising.

¹⁹⁰ This documentation includes both reports by former detainees and statements by Israeli public officials reported by the Israeli press. See: Doron Me'iri, "A Special Torture Unit at Work," *Hadashot*, 24 February 1992. Quoting security and police sources, *Hadashot* reported the existence of a "district police" interrogation unit which "moved from one detention center to another using violent and brutal [interrogation] methods." [*Ibid*]. As discussed in the final section of this review of detention facilities, this unit often worked in temporary holding facilities in Israeli Military Government Compounds in the Occupied Territories. It was confirmed that they conducted interrogations in a police station located inside the Israeli Military Government Compound in Hebron. According to al-Haq's field research, at least two persons using the same pseudonyms and fitting the same descriptions of members of this unit interrogated Palestinians accused of stone-throwing in Ramallah Police Station. Further,

similar cases were documented in other West Bank and Gaza Strip police stations. See the discussion of these cases in the section on the use of electric shock below.

¹⁹¹ PHRIC, *Israel's Use of Electric Shock Torture in the Interrogation of Palestinian Detainees* (Jerusalem: PHRIC, 1991), pp. 15-16.

¹⁹² See *Hadashot*, 24 February 1992.

¹⁹³ *Ibid.*

¹⁹⁴ See the recommendations made in the Vardi Report, quoted above in note 1, 85.

¹⁹⁵ *The Landau Commission Report*, para. 4.10.

¹⁹⁶ See Chapter 4 for a discussion of the existence of such guidelines and the findings of the Landau Commission with respect to their content prior to November 1987.

¹⁹⁷ Al-Haq Affidavit No. 3348.

¹⁹⁸ Al-Haq Affidavit No. 3407. See discussion of Mr. Steiti's treatment prior to interrogation in Chapter 6.

¹⁹⁹ Al-Haq Affidavit No. 3275. Mr. Farraj's treatment immediately prior to interrogation is also described in Chapter 6.

²⁰⁰ *Ibid.*

²⁰¹ Al-Haq Affidavit No. 3445.

²⁰² Al-Haq Affidavit No. 3287.

²⁰³ Al-Haq Affidavit No. 3491.

²⁰⁴ Medical Report, issued by Dr. J. Sunuqrot on 27 January 1992. The original of this report is on file at al-Haq.

²⁰⁵ Al-Haq Affidavit No. 3428.

²⁰⁶ *Ibid.*

²⁰⁷ Al-Haq Affidavit No. 3942.

²⁰⁸ Al-Haq Affidavit No. 3303.

²⁰⁹ Al-Haq Affidavit No. 3215. Mr. Abu-Lawi was arrested on 2 December 1990. His interrogation lasted several months during which period he was interrogated in three different detention facilities: Petah Tikva (a facility run by the Israeli police), Nablus Prison, and Tulkarem Prison. For more on this and similar cases see the discussion below on interrogators and detention facilities.

²¹⁰ *Ibid.*

²¹¹ Al-Haq Affidavit No. 3387.

²¹² "Israeli Group Warns Doctors Against Approving Interrogation," *Washington Post*, 1 July 1993.

²¹³ *Ibid.*

²¹⁴ For an additional example see the discussion of the Ziyad Hasan 'Abd-al-Fattah Abu-Hawwash case, in the section on *shabeh* above.

²¹⁵ Al-Haq Affidavit No. 3402. Mr. Abu-'Atwan was arrested on 5 April 1989. See the discussion of the treatment of Mr. Abu-'Atwan prior to interrogation, reviewed in Chapter 6 above.

²¹⁶ *Ibid.*

²¹⁷ Al-Haq Affidavit No. 3417.

²¹⁸ UN Special Rapporteur on Torture, *Report by the Special Rapporteur, Mr. P. Kooijmans Pursuant to Commission on Human Rights Resolution 1990/34*, 10 January 1991, p. 93, para. 303 (c).

²¹⁹ Al-Haq Affidavit No. 2744.

²²⁰ Al-Haq Questionnaire No. T92.

²²¹ *Ibid.*

²²² Al-Haq Affidavit No. 3227.

²²³ Al-Haq Affidavit No. 3298.

²²⁴ Al-Haq Questionnaire No. T226.

²²⁵ Al-Haq Affidavit No. 3216.

²²⁶ Al-Haq Affidavit No. 3412.

²²⁷ Al-Haq Affidavit No. 3391.

²²⁸ See e.g.: Al-Haq Questionnaire No. T375 in which 'Abd-al-Karim Khaled Rashid Mansour, a 25-year-old worker from Jenin Refugee Camp who was interrogated in Jenin Prison in November 1989, recounted having seen the interrogator "watching the time" while choking him.

²²⁹ Al-Haq Affidavit No. 3223. Mr. Jaradat was interrogated in February 1989.

²³⁰ Pursuant to a ruling by the Israeli High Court of Justice, the exact circumstances of Mr. Hamdan's death could only be revealed to Mr. Hamdan's family and his attorney. For a discussion of this case see: al-Haq, *A Nation Under Siege*, pp. 182-183, 570-571.

²³¹ "Certificate Concerning Classified Evidence," signed by the Minister of Defense Yitzhaq Rabin, and submitted in H.C. 711/87, 14 March 1988.

²³² "Statements to the Court," by Respondents (the Minister of Defense and the Minister of Police), in H.C. 711/87, 22 February 1988.

²³³ Al-Haq Affidavit No. 2100.

²³⁴ Al-Haq Affidavit No. 3405.

²³⁵ *Ibid.*

²³⁶ Al-Haq Affidavit No. 3218.

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- ²³⁷ Al-Haq Affidavit No. 3413.
- ²³⁸ Al-Haq Questionnaire No. T247.
- ²³⁹ Al-Haq Affidavit No. 3224.
- ²⁴⁰ Al-Haq Questionnaire No. T375.
- ²⁴¹ Al-Haq Affidavit No. 2100.
- ²⁴² Al-Haq Affidavit No. 3568.
- ²⁴³ Al-Haq Affidavit No. 3275.
- ²⁴⁴ *Ibid.*
- ²⁴⁵ Al-Haq Affidavit No. 3294.
- ²⁴⁶ Al-Haq Affidavit No. 3181.
- ²⁴⁷ For an example of such refusals see e.g.: Al-Haq Affidavit No. 3379.
- ²⁴⁸ Al-Haq Affidavit No. 3387.
- ²⁴⁹ Al-Haq Affidavit No. 3379.
- ²⁵⁰ Al-Haq Affidavit No. 3361. Name withheld from publication.
- ²⁵¹ Al-Haq Affidavit No. 3362. Name withheld from publication.
- ²⁵² Al-Haq Affidavit No. 3379.
- ²⁵³ *Ibid.*
- ²⁵⁴ Al-Haq Affidavit No. 3419.
- ²⁵⁵ Al-Haq Affidavit No. 3403.
- ²⁵⁶ Al-Haq Questionnaire No. T77.
- ²⁵⁷ Al-Haq Affidavit No. 3290.
- ²⁵⁸ Al-Haq Affidavit No. 3417. Mr. al-Mabhouh was interrogated in Gaza Central Prison in March 1988.
- ²⁵⁹ Al-Haq Affidavit No. 3275. Mr. Farraj was interrogated in al-Moscobiyya in May and June of 1989.
- ²⁶⁰ Al-Haq Affidavit No. 3215. Mr. Abu 'Lawi was interrogated in Petah Tikva in December 1990.
- ²⁶¹ Al-Haq Affidavit No. 3218. Mr. Jabarin was interrogated in Hebron Central Prison in December 1989 and January 1990.
- ²⁶² Cable from U.S. Consulate General in Jerusalem to U.S. Department of State, "Jerusalem 3239," p. 104.
- ²⁶³ *Ibid.*