

I fear that my finger is broken because of the swelling and the excruciating pain - and I need immediate treatment.

The conditions in the cell are very hard, there is no ventilation at all. There are no openings in the cell and often I am held there alone.

In addition, the food they give me is of low quality and of the minutest quantity. I am always hungry..."

On April 15, a petition was submitted to the High Court against the continued torture of Bassam Nairuch (petition 2709/96, Bassam Nairuch and HaMoked vs. GSS). A visit to the detainee after filing the petition revealed that his detention conditions had improved. On April 21, the State agreed to the issuance of an *order nisi* injunction (a show cause order) and an interim injunction preventing use of the interrogation methods described in the petition until the petition is heard.

In spite of the fact that the *order nisi* gave the State 12 days to respond to the petition, no response has been given. In the meantime, Mr. Nairuch has been transferred to the Meggido detention facility.

Torture

The interrogation methods described in Bassam Nairuch's affidavit are not exceptional. These and other methods, no less severe, were used against many of the detainees visited by HaMoked attorneys. The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment bans categorically the use of torture. Article 2 of the Convention emphasizes that

no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

Article 1 defines torture in the following manner:

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 party information or a confession, punishing him for an act he or a third party has committed or is suspected of having committed, or intimidating or coercing him or a third person ...

The Convention was signed by Israel on 22.10.86, ratified on 4.8.91 and entered into force on 22.11.91.

The convention is one - though not the only - source for the prohibition on the Israeli authorities from using torture in interrogations. In addition, the Israeli Penal Code, as well as customary international law, absolutely prohibit the use of torture.

Torture is among the most grave violations possible of human rights and dignity. The means described below are intended to break the person physically and mentally and to leave him

at the mercy of his interrogators. The interrogee loses control over his body and loses his ability to think rationally. He is isolated from the outside world and from everything important to his identity and his dignity as a human being. All this in addition to the extreme physical pain and suffering, and their repercussions on his physical and mental health - which have not been evaluated sufficiently. As we have seen in the past (in the case of 'Abd a-Samed Harizat), some of these methods also endanger the interrogee's life. Such violent disregard for the integrity of a person's body cannot be justified under any circumstances. Even the highest social interest, or the interest of other individuals, cannot justify such complete disregard for the rights of any individual.

Torture Methods

In the past three months, HaMoked has collected a great many testimonies about interrogation methods used by the GSS. These methods constitute torture, both in the colloquial sense and in the legal sense as defined by international conventions. The methods used, based on information obtained by HaMoked, are described below.

Each of these methods was experienced by many of the detainees who provided testimonies. The methods are also known from testimonies provided in the past. We have only provided one or two examples of each method.

Forceful Shaking

Forceful shaking consists of grabbing the interrogee by the shoulders or by the front of the shirt and violently shaking the upper half of the body. The shaking damages blood vessels connecting the brain and the interior of the skull. In the case of 'Abd a-Samed Harizat, shaking caused his death. In most cases, the effects of shaking include dizziness, vomiting, and loss of consciousness. Since the death of Harizat, shaking also carries a powerful threat, as the victim knows he is being subjected to a "treatment" which has already caused a death in the past. In the statement Ma'i Adnan Abu Tabaneh provided to Attorney Andre Rosenthal on 13.3.1996 in the Ashkelon prison:

On 11.3.96 I was shaken by my interrogator: once during the day and once at night. During the day shaking, three interrogators were in the interrogation room. At night there was just once interrogator.

The interrogator said that they would do to me what they did to 'Abd a-Samed Harizat. They told me that I would leave the prison on a stretcher...

During my shaking during the day, the interrogator pushed my head into the table.

I was shaken while my hands and legs were cuffed.

My head hurts.

Taha a-Sheikh said in his statement to attorney Thabet Beidusi on April 2, 1996 that he lost consciousness following the shakings he experienced in the Ashkelon prison.

Taleb Abu Abih related the following in his statement to attorney Thabet Beidusi on April 2, 1996:

... In addition to the shabeh position [painful body positioning] which my interrogators use on me, they shake me really hard, and every day they change my shirt because it is torn...

My interrogators, who answer to Captain Mofaz, Captain Siri, Captain Shachar, Captain Arik, Captain Simon, and Colonel Roni declared more than once that with them there's no human rights, no law and no courts and that they will continue to interrogate me with these methods until the day they get my confession to membership in the Hamas organization...

This detainee was detained incommunicado until 30.3.96. His appeal to meet with an attorney was denied by the Supreme Court on 21.3.96.

Sleep Deprivation

Sleep deprivation is one of the principle ways of breaking the detainees. In addition, several of the other interrogation methods, which also include grave suffering, serve the purpose of preventing sleep. Detainees reported sleep deprivation for periods of several days.

Ahmad Qawasmeh tells in his statement of 17.3.96:

...during the week in which I was interrogated, I was not allowed to sleep: they would interrogate me and return me to "waiting" where I would sit on a low bench, my hands cuffed behind my back and my legs cuffed, a sack on my head and loud music 24 hours a day.

I should state that when I finally, in spite of all this, succeeded to close my eyes and my head fell in sleep, they made sure to wake me...

The time table of the interrogation of Walid Karageh, as he described in his statement provided to attorney Rosenthal at the Shikma Prison on 14.5.96, illustrates the periods during which the detainees are denied sleep:

The following is the schedule of my interrogations and periods of shabeh since my detention until providing this statement: The first week on my detention, from April 4, 1996 until May 2 there was one short break on April 30 and another on May 1, a break for a total of about 3 or 4 hours.

On the second week of my detention, from May 5-9, 48 hours shabeh-interrogation, a break of about 2 hours, back to shabeh-interrogation until 8.5.96, a break of about 6 hours and back to shabeh-interrogation.

In the third week of my detention, on May 12, I was in *shabeh* and in interrogation all day with a break at night, for almost the entire night. From May 13 until providing this statement, interrogation and *shabeh*.

Isolation

The isolation of the detainees is a means of cutting them off from reality and creating a feeling of helplessness. This is accomplished by detention incommunicado, preventing contact with other detainees, sensory deprivation (preventing sight with a sack on the head or dark sunglasses) and loud music. Another means is imprisonment in *tzinuk*, the isolation cell.

The following is taken from the statement Diyab Jaber provided to Attorney Beidusi in Kishon detention facility on 16.4.96:

... The next day I was brought to the detention center at Kishon. Immediately following my arrival at Kishon, my interrogators kept me in the isolation cell for three days. This cell is completely sealed - no ventilation, no openings. I didn't even know when it was day and when it was night...

Shabeh and Loud Music

Between interrogation sessions, detainees are held for most of the time in "waiting" in the *shabeh* position, with loud music played constantly.

Hatem al-Felah described the *shabeh* position to Attorney Rosenthal on 17.4.96 at Shikma Prison:

From April 7-9, I was kept in *shabeh*: a low bench, my hands handcuffed behind my back so tightly that they caused swelling, my legs sometimes cuffed, usually at night, a sack on my head, loud music. I was checked by a doctor and they allowed me a break. The next day in the morning I was returned to *shabeh* until the holiday break.

From April 14 until the 16 at around 2:00 a.m. I was kept in *shabeh*. Around 2:00 a.m. on 16.4.96 I confessed. My back hurts a lot because of the *shabeh*...

Hatem al-Felah, 23 years old, has suffered since childhood from FMF (Familial Mediterranean Fever, a chronic illness), and was supposed to undergo treatment on April 7.

The statement of Ayman Mujahed, provided to Attorney Beidusi in Kishon detention center on 14.4.96, is another characteristic description of the *shabeh* position:

On the day of April 3, my interrogators sent me to sit in an extremely painful position - *shabeh* - where I sit on a low chair whose back is at an angle which presses on my back, and my hands are tightly handcuffed behind my back, a sack on my head and loud music played at me all the time. I was held like this from the morning until the afternoon. The handcuffs are so tight they cause swelling in my hands.

On 6.4 (Sunday) until Tuesday (8.4) I sat in *shabeh* continuously - with the tight handcuffs on me, preventing circulation and causing swelling.

During these three days, the interrogators prevented me from sleeping except for one hour of rest...

Gambaz

Many detainees were forced during their interrogation to kneel frog-like - Gambaz - for various periods of time.

Taleb Nejar (in his statement provided to Attorney Rosenthal in Shikma detention facility on 28.4.96):

My interrogators forced me to kneel frog-like while I was in the interrogation room while my hands are handcuffed behind my back, facing upwards...

Fuaz Abu Ramila (in his statement provided to Attorney Rosenthal in Shikma detention facility on 8.4.96):

In interrogation they forced me to carry out an exercise in which I have to bend my legs keeping my back straight for long periods of time. When I refused, the interrogator threatened me. The interrogators who forced me to do this were "Avner" and Abu Hadi...

Tightening the Handcuffs

Taleb Abu Sabih states (in his statement from 2.4.96 at Ashkelon prison):

... One of the interrogators raised the handcuffs above my hands and pressed them hard so that my circulation stopped and I felt like I was going to die...

Exposure to Cold

Many detainees told of exposure to cold, either by extreme air conditioning which they were placed directly underneath, or by exposing them to night air.

Yaqub Kajeh told Andre Rosenthal in his statement from 8.4.96 at Ashkelon prison:

... I'm very cold. They put me next to the air conditioner. When I got to the meeting with my attorney, I was shaking.

Threats and Degradation

During the interrogation, frequent use is made of threats and degrading expressions toward the interrogate and his family. Among the most common threats are that of "military interrogation" which will leave the detainee crippled or crazy for the rest of his life (frequently with mention of the fate of 'Abd a-Samed Harizat) and threats that his house will be destroyed, the women of his family will be raped and that his family will be deported.

Lack of Medical Treatment

In many cases, detainees report a lack of necessary medical treatment or deficient treatment. As is the case with the physical and mental results of torture, this is also liable to have long

term consequences, in addition to the immediate suffering caused to the detainee.

Amjad 'Asker, blind in one eye, was detained a week after he underwent an operation in his eye. That same day he was to have continuing treatment at the hospital. For nineteen days, 'Asker was detained incommunicado. At the time this report was prepared, the fate of his eye was unknown.

Other Methods

Majed 'Awadallah related in his statement provided to attorney Rosenthal at Shikma detention facility on 14.5.96, that "they forced me to carry out an exercise in which I sit on a backless chair, my hands cuffed, and I'm forced to lean backwards for about half an hour."

Walid Kargeh relayed the following in the statement he provided to attorney Rosenthal at Shikma detention facility on 14.5.96:

About half an hour before I gave this statement to my attorney three interrogators forced me to enter a very hot room. I complained to them and in response I was pushed to the ground. One interrogator stepped on my leg where the handcuff met my leg. I showed my attorney the marks on my legs.

An example of an interrogation

The interrogation methods described above are not used in isolation. In order to illustrate the cumulative effect of the interrogation methods, the complete testimony of Raad Sunuqrut, as provided to attorney Thabet Beidusi on 14.4.96 at the Kishon detention center, is provided below.

Sunuqrut was detained incommunicado from the day of his detention (March 14) until April 5. A petition to allow a meeting (HCJ 2148/96) was rejected on 21.3.96:

I hereby provide this statement to support my request and my appeal to stop the torture which my GSS or Police interrogators are inflicting against me.

On 14.3.96 I was detained in my factory in Hebron. Immediately afterward I was taken to al-hashabieh (in the civil administration) in Hebron, and after I was held a complete day I was taken to detention in Kishon.

My interrogators have held me since my detention next to an air conditioner which spews out cold air.

In addition, since I was detained I have been in *shabeh* and have to sit in a very difficult position - gambaz - with my knees bent.

Since my detention, I have been held continuously in very painful positions: *shabeh* - where I sit on a low stool whose back is at an angle which presses against my back, my hands tightly bound in handcuffs behind my back, a sack on my head and loud music played all the time, unceasingly.

The cuffs on my hands are very tight such that my circulation is cut off - causing swelling in my hands.

Since I was detained I have been prevented from sleeping, and I was allowed to sleep only one night on Wednesday (the end of the holiday).

As a result of the torture and the difficult interrogation methods used against me, I have infections in my knees and in my gums. I also suffer from an infection in my jaw and I'm bleeding from my rear because of the prolonged sitting.

Due to the sleep deprivation for a period of about a month, I have serious headaches and feel like my head is about to explode. I ask my interrogators to summon a doctor to treat me but they refuse to respond.

Last Thursday my interrogators - Captain Rani and Captain Safi - threatened that they were about to use military interrogation methods against me and that if I didn't confess to the acts that they attribute to me, they would shake me and cause physical and mental damage, in addition to the damage already caused.

In addition, my interrogators use degrading expressions - they gravely insult me, while shaking me forcefully, cause me swelling in the chest and ripping my clothes - I now show you the jacket which was ripped as a result of the forceful shaking.

There is a fear - both in light of the methods my interrogators have already used against me which have caused me physical and mental pain which I still suffer from to this day, and in light of the threats they voice, which are carried out - that I will suffer irreversible bodily and mental injuries, which will endanger my life, and my physical and mental well-being.

This fear is intensified in light of the "promises" of my interrogators that the "military" interrogation methods start tonight (14.4.96).

In the matter of Raad Sunuqrut, an appeal was filed to the High Court of Justice on 15.4.96 (HCJ 2708/96). In his visit on 17.4.96, attorney Beidusi found that Sunuqrut's conditions had improved, and that the threat to use "military" interrogation was not realized. Seven days after filing the appeal (on April 22) an interim injunction and an order nisi were issued for 12 days, with the consent of the State's Attorney.

On 16.4.96 the complaint concerning Sunuqrut was brought to the Department for Investigating Police Officers in the Justice Ministry. The results of the investigation have not been received.

In the meantime, Sunuqrut was transferred to Meggido detention facility, but was returned to the Kishon detention facility and another order for incommunicado detention was issued. Once a meeting was permitted, his attorney learned that Sunuqrut had confessed to the allegations against him after being placed in a cell with collaborators who threatened to drip burning plastic on his body.

High Court Treatment of the Phenomenon of Torture

During the past three months of the project, HaMoked through attorney Andre Rosenthal has filed 21 appeals to the High Court of Justice on behalf of 26 detainees who suffered torture during their interrogation. Each appeal detailed the methods of torture used against the appellants and requested issuance of an order nisi requiring the state to explain why it uses these interrogation methods. In addition, the appeals have requested the High Court to issue an interim injunction which prohibits continuation of these methods until the case is heard.

Only in the first two of the 21 appeals did the High Court grant HaMoked's request. On 14.3.96 Justice Gabriel Bach issued an interim injunction and an order nisi for four days in H CJ 1998/96 Adnan Abu Tabaheh and HaMoked: Center for the Defense of the Individual v. the General Security Service.

On 19.3.96 Justice Gabriel Bach issued an interim injunction and an order nisi for 5 days in H CJ 2104/96 Ahmad al-Qawasmeh and HaMoked: Center for the Defense of the Individual v. the General Security Service.

In the remainder of the appeals, no orders were issued; rather the appeals were scheduled for a hearing and sent for the State's reply.

In thirteen of the appeals in which the Court did not issue orders in chambers, the State agreed to the issuance of interim injunctions and orders nisi for 10 or 12 days. The Court issued the orders in accordance with the State's agreement. The time between filing an appeal and agreeing to orders ranged between one to seven days (4.75 days on average), during which time the authorities could continue to torture the detainees.

In four appeals, the State announced that it would not use the methods described in the appeal against the appellants. This announcement came between one to six days after the appeal was filed (an average of 4 days). Three of these appeals were withdrawn following the State's announcement, and in one appeal, postponement of the discussion was agreed to.

One appeal was cancelled after the appellant was released on the day on which it was filed.

One appeal was rejected by the court: H CJ 2837/96 Muhamad Mujahed et al v. the General Security Service. An analysis of this case follows.

To date, in none of the appeals in which orders nisi were filed has the State filed a response, with the exception of one appeal - H CJ 2104/96 Ahmad Qawasmeh and HaMoked: Center for the Defense of the Individual v. the General Security Service. In this appeal, an order nisi was granted by the Justice Back on 19.3.96 giving 5 days for a response. On agreement of attorney Rosenthal, the date was extended by an additional week. The State did not meet this deadline, and the response was written only on May 2.

In terms of content, this response does not differ from the response given in H CJ 2837/96, which is described below.

Example: Torture Appeal: HCJ 2837/96 Muhamad Mujahed et al v. GSS (unpublished)

In this appeal, HaMoked turned to the High Court on behalf of three Palestinians who were detained in the Sharon Detention Center. On 18.4.96, attorney Thabet Beidusi visited the three detainees on behalf of HaMoked and took statements in which they testify to the torture they underwent. Muhamad Mujahed testified:

I was detained 11.4.96, at 1:30 a.m. from my house in Hebron. I was taken to al-'Amara in Hebron and the next day I was taken to the Sharon detention center.

On 14.4.96, my interrogators forced me to sit for a long period of time - until 17.4.96 (at around seven in the evening) in an extremely painful position called *shabeh*, where I sit on a low stool whose back presses into my spine, and my hands tightly cuffed behind my back, a sack on my head and loud music playing all the time.

The handcuffs are so tight that they cause swelling in my hands. In addition, my interrogators prevented me from sleeping the entire time, 4 days and nights. As a result I now suffer from excruciating head pains.

My interrogators threaten me that if I don't confess to the acts they attribute to me, they'll shake me and make me wish I were dead, mentioning the case of 'Abd a-Samed Harizat who was interrogated in the Hebron prison and died after shaking.

My interrogators, some of whom answer to the nicknames Netzer, Sadeq and Jaimie, reminded me that the death of Harizat was an accident as far as they're concerned, and that in my case, they won't let me die; instead I'll almost die...

In addition, my interrogators promised me that they would leave me crippled and they threatened to demolish my family's house and to deport my family. Also my interrogators degrade me, insult my honor, the honor of my mother and my sisters...(son of a whore, your sisters are whores, etc.)...

Ashraf Abu Markiyeh reported on similar interrogation methods - *shabeh* a filthy sack on his head, handcuffs so tight they caused swelling and sleep deprivation:

my interrogators, headed by Captain Netzer, threatened me that if I don't confess they'll use "military interrogation" as they call it, which will be much more cruel than the measures already used against me. They also promised that if I don't confess they'll let me out in a coffin or as a cripple, while mentioning the case of 'Abd a-Samed Harizat...

The interrogation of Eyad Mujahed was conducted in a similar manner. For about 34 hours he was left in *shabeh*. He adds:

I suffer from asthma, and from breathing difficulties. As a result of the harsh interrogation conditions as well as the tiny cell in which I was kept for about a day, two days ago I vomited blood, and all my demands to summon a medic were not successful...

Eyal Mujahed was detained April 3 and an order was issued for incommunicado detention until April 15. On April 14, as part of the discussion of the appeal filed by HaMoked against this order (HCJ 2620/96), the State agreed to a visit.

On April 21, HaMoked filed High Court appeal 2837/96, through attorney Andre Rosenthal to stop the torture of the three detainees. the High Court did not issue an interim injunction or an order nisi. Instead the discussion of the appeal was set for April 25. In anticipation of the discussion, the State Attorney issued a response to the allegations in the appeal.

In its response, the State claimed that Eyad Mujahed complained about vomiting blood only on April 17, and that he was immediately treated. Likewise, it stated that his interrogation had ended and therefore his appeal was no longer relevant.

In addition, the State responded to additional claims of Muhamad Mujahed and Ashraf Abu Markiyeh:

- * Regarding sleep deprivation, it was claimed that the appellants possess vital information, and therefore intensive interrogation, which does not allow a break of six continuous hours for sleep every day, is essential. The State's Attorney claimed that "on most days of interrogation, appellants were allowed to sleep six hours and on certain days even longer." This does not deny the assertion of the appellants that they were denied sleep for a number of days in a row at a certain point in their interrogation.
- * Regarding holding the appellants in a sitting position, with their hands cuffed behind their backs, they claimed that the this measure is taken to ensure the security of the interrogation facility and the interrogators, and in order to prevent them from attacking their interrogators. The State did claim that "whenever possible, the handcuffs are removed, as was the case with most of the period of detention." This does not dispute that hands are tied for prolonged periods of time, even if the cumulative total did not amount to the majority of the period of detention. The response did not give its version of the time periods in which appellants were tied up in this manner. The response did not address the chairs in which the appellants were seated or their backs.
- * Regarding tightening the handcuffs so as to cause swelling, the State claimed that "the handcuffs are used in a completely normal manner."
- * Regarding covering the head, the State claimed that "this measure is taken only when there is a fear that the appellants will identify other interrogees. Such identification could damage the interrogation and cause other security damage. However, this was not the case during most days of the detention, and in any case, most of the detention period, the appellants eyes were not covered." Again there is no exact version of the periods of time in which the appellants eyes were covered. However, the expression, "this was not the case during most days of the detention," could be interpreted to acknowledge that this practice was used for several days. That the State sticks to its assertion that these measures were not taken "most" of the detention period is worrisome if we recall that when this response was written, the appellants had already been detained for 12 days. So long as the appellants were tied up for a period less than six uninterrupted days, this does not constitute "most" of their detention.

- * Regarding loud music, the State continues with the same line of reasoning and states that "for most of their detention ... no music was played." The point of the music, according to the State, was to prevent the interrogee from talking with his neighbor, and "was played not just to the appellants but to everyone in the interrogation facility, interrogators and interrogees alike." The response does not explain how interrogators communicate with each other and with the interrogee while being subjected to this music.

According to the State, the intensive interrogation of the appellants is required based on classified information which reveals "that the appellants hold information whose immediate attainment will assist in the prevention of future attacks in Israel." The State was ready to present the information concerning these suspicions and the interrogation to the Court without the respondent being present.

The discussion of the appeal took place on 25.4.96 before Justices Barak, S. Levine and Strassberg-Cohen. In their decision, in which they reject the appeal, the Justices state:

We have heard from the appellants' attorney, and studied the appeal. We have also heard from the respondent's attorney and studied the written response. With the consent of the appellants, we have heard in closed chambers the complete and detailed explanations from the GSS interrogators regarding the circumstances, background and purpose of the interrogation. We are satisfied that under the current circumstances - part of which we are unable to reveal due to their classification - there is no basis for our intervention.

We have noted the announcement of Mr. Nitzan that the appellants are in constant contact with their attorneys and that they are not detained incommunicado.

Detention Conditions

Both during interrogation and afterward, detention conditions of Palestinian detainees are harsh and shameful. The repeated problems include extreme overcrowding, prevention of showers for two weeks at a time, lack of exercise and lack of a change of clothes.

The issue of lack of clothes assumes greater significance in light of the fact that the wave of detentions in the occupied territories since February 2 were surprise detentions, conducted at night. In many instances, attorneys visiting detainees discovered that the detainees were taken in their pajamas or underclothes and nothing more. Some did not have shoes. In spite of the regulation requiring provision of clothes to inmates, detainees in the Meggido detention facility were not given clothes or shoes - this was discovered by attorney Hazan Abu Ahmad from Nazareth in his visit of March 10.

A request for "immediate provision of clothes, including shoes, to all inmates in IDF facilities, as required by regulation," was sent to the Military Attorney on 11.3.96 by attorney Tamar Pelleg-Sryck.

On the same day, an advice officer sent a response on behalf of the Assistant Military Judge Advocate General for International Law at the Military JAG's Office according to which "your letter has been sent for evaluation to the Assistant Police Chief. If the claim proves to be accurate, the responsible parties will of course act to redress the wrongdoing."