

## Torture

The detainees held in interrogation wings in Israel undergo torture. During long periods of time they are prevented from sleeping and are chained in handcuffs in painful positions as they are seated on a low stool in which the front legs have been sawed so that the stool leans forward and the backrest cuts into the back of the detainee. The detainees' hands are stretched and cuffed through the backrest of the stool in a painful manner which prevents all movement. The handcuffs themselves are tightened, causing pain, wounds and swelling of the hands. In addition, the head of the detainee is covered by a sack of thick cloth which barely permits breathing and loud music is played continuously which dulls the senses. Occasionally, there is also exposure to cold or heat. During the interrogation itself the interrogators utilize "shaking," a form of torture which causes brain damage and the risk of death (as occurred in the case of "Abd al-Samad Harizat), and the "gambaz". In "gambaz" the detainee is forced to kneel in the frog position for extended periods of time, his legs forced together and hands cuffed behind his back, until he can no longer hold out and falls over. In addition, HaMoked has come across cases in which the detainees were hung by their hands from a hook on the wall such that their feet barely touched the floor; of cases in which the detainee was seated with his back against a table, and the interrogator placed the hands of the detainee on the table and pressed downwards on his shoulders; of cases in which detainees were forced to perform various exercises; of beatings, humiliations and threats. The attorneys of HaMoked have often found the detainees broken, both physically and mentally. In one instance, the detainee was unable to stop sobbing during the entire visit of the attorney.

Israel attempts to justify its use of systematic torture with the argument of a "ticking bomb," but as of today has not pointed to one case in which the facts fit this theory. Many of the torture victims assisted by HaMoked were released or put in administrative detention following the conclusion of their interrogations, and no charges were filed against them. Almost always there was a letup in the torture on weekends and holidays, when the interrogators went on holiday. In addition, both from a legal and moral perspective, the argument of a "ticking bomb" lacks all basis. No goal justifies all means, especially not the use of physical and mental torture. Israeli law specifically forbids the use of force during interrogation. The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) explicitly forbids the use of torture under all conditions with no exceptions for emergency situations.

In 1997 HaMoked submitted 27 High Court petitions to halt the torture of Palestinian detainees. In the majority of cases the State announced, in the wake of the petitions, that it would discontinue the use of "physical force" against the petitioner. While the State had its own narrow interpretation of what constitutes physical force, the most severe forms of torture were halted. However, the case of Aiman Kapisha is different.

In the matter of Aiman Kapisha, the GSS used its full authority to prevent a meeting between him and his attorney. This prevention continued for thirty full days, and HaMoked submitted a petition against his torture already during this period. The court refused to issue an interim injunction to halt the torture. When Kapisha's attorney was permitted to visit him on 5 April 1997, the torture to which he was subjected was exposed: Tying in painful positions, overtightening of handcuffs, a sack covering his head, loud music being played continuously, prevention of sleep, exposure to cold, "gambaz,"

shaking, beatings and physical exercises. He was further threatened that his family members would be arrested so that he could hear them scream during their interrogations. The GSS continued to use various combinations of these methods until the end of May.

The matter of Kapisha was presented before the UN Committee against Torture, which convened on 7 May 1997 in Geneva to discuss the matter of Israel. His affidavit, presented before the committee in real time, played a crucial role in determining the conclusions to which the committee came. The committee unequivocally concluded that the GSS interrogation methods constitute torture as defined by the UN convention. The committee further determined that Israel is prevented from raising arguments of State security to justify its use of torture.

In addition, Amnesty International issued an urgent action appeal in the matter of Kapisha. As a result, the Israeli authorities were bombarded with tens of letters from around the world demanding that Israel stop torturing Kapisha. The case also received extensive news coverage, particularly outside of Israel, and once again brought to the forefront the issue of GSS torture.

It should be noted that the UN committee's condemnation of Israel's use of torture was barely mentioned in the Israeli media.

Further progress relates to the justification that the State must provide to the courts concerning the GSS interrogation methods. In the past, in response to court petitions submitted by HaMoked, the State ignored the arguments against the tying in painful positions and made due with the statement that the tying (in addition to the sack and music) is not an interrogation method but intended to protect the security of the interrogation facility and prevent communication among the detainees. Presently, however, the State admits that the tying of detainees in "incomfortable positions" is an interrogation method, and justifies it with the "necessity of defence." It is possible that this is an initial step toward the uncovering of the GSS lies and a certain limiting of the methods of torture.

Pending before the High Court is a long list of petitions submitted by HaMoked on behalf of detainees tortured by the GSS, and whose interrogations have ended since the submission of their petitions. Some of these detainees were released, others placed in administrative detention while against some charges were pressed. In addition, there are also petitions submitted by attorneys and other human rights organisations which are still pending. The tendency of the court has been to avoid making a principled ruling in the subject of torture. Decisions concerning interim injunctions were almost always worded, even when they had a clear influence on the immediate situation of the specific interrogatee, in an unclear manner. Numerous petitions were deemed "irrelevant" after the interrogation of the petitioner was concluded. In other petitions, no date for a hearing was ever set. In the beginning of 1998 a change in this trend became evident. Two petitions of the Israeli Public Committee against Torture were set for a hearing with nine judges, with a stated goal of reaching a principled judgement. To the discussion of these petitions were added other pending petitions, including one of a detainee (who has since been released) and HaMoked. A date for this hearing has yet to be set.

In addition to the submission of High Court petitions to halt the torture of individual detainees, HaMoked petitioned for the full exposure of the torture undergone by the detainees; this was done in the framework of criminal proceedings which were initiated by the State against these detainees. HaMoked also initiates the examination of released detainees, in order to examine the long term impact of torture. The petition of HaMoked to try the GSS interrogators responsible for the death of Harizat is also still pending.

### Detention Conditions

While the periods of detention of Palestinians held by Israel are determined by military legislation in the Occupied Territories (apart from those detainees who are residents of East Jerusalem), their detention conditions are determined by Israeli law. In May 1997, the Criminal Law Procedure (Detention and Enforcement Authorities) 1996, went into effect. This law determines, among other things, minimum conditions for detainees which ensure their dignity and health.

Without a doubt, the conditions of the detainees, as described to attorneys of HaMoked, do not meet the requirements of this law. In November 1997, one of the detainees described the conditions in which he was held in the Ashkelon prison. There were six detainees held in a cell sized 2.5x3.5 m. The detainees were not given beds but old mattresses, which were ripped and flea-infested. The blankets were also ripped, old, moldy and wet. The toilet was separated from the rest of the cell by a low partition, such that the detainees had no privacy. The trash bin, emptied once a day, had no lid, and its odor combined with the heavy odors emanating from the toilet. Small bugs and cockroaches freely roamed the cell. In addition, the detainees, who ate in the cell, did not receive flatwear and were forced to eat with their hands. No daily exercise period was permitted.

HaMoked was able to improve the aforementioned conditions, and one example of this is the provision of a daily shower. The new detention laws determine an uncontested right to a daily shower. In the wake of petitions submitted by HaMoked to district courts in Jerusalem and Beer Sheva, the State and prison services recognized the obligation to permit a daily shower for Palestinian detainees. The court in Beer Sheva also ruled that the partition separating the toilet from the rest of the cell must be raised, but this decision was overturned by an appeal of the State to the High Court.

Due to a petition submitted by HaMoked to the High Court, the State announced that it would transfer the detainees from the interrogation wings to other wings, in which the conditions are not as dire, as soon as possible upon the conclusion of their interrogations.

Following vigorous correspondence with the prison in Ashkelon, the commander of the prison announced in the beginning of 1998 that each detainee is eligible for a daily shower, a change of clothes, underwear and towel, bath items and receipt of various personal belongings from his family. In addition, due to the complaint of one of the detainees assisted by HaMoked, the detainees were provided with Korans.

This is obviously not enough to overcome the difficult and humiliating conditions under which the detainees must live, but it is possible to point to a certain improvement which the project brought to their lives. HaMoked does not make due with the principled guarantees given, but ensures that they are enforced in specific cases. In 1997, HaMoked submitted 20 petitions on behalf of detainees to regional courts concerning their detention conditions.

Table of Requests for Location of Detentions According to Regions  
and Years (to 31 December 1996)

	1989	1990	1991	1992	1993	1994	1995	1996	1997	<b>Total</b>
Nablus	10	5	6	5	32	45	107	76	78	<b>288</b>
Tulkarem	4	9	4	1	21	42	88	87	107	<b>256</b>
Ramallah	132	101	54	36	76	102	109	130	145	<b>772</b>
Jerusalem	61	37	37	36	56	98	67	55	31	<b>471</b>
Bethlehem	110	56	29	25	59	218	396	158	350	<b>1083</b>
Hebron	34	7	8	1	63	295	556	698	367	<b>1672</b>
Jenin	4	2	5	1	9	9	18	44	22	<b>92</b>
Jericho	5	3	1			1	4	6	5	<b>23</b>
Other	6	2	2	1	1	1	6	14	7	<b>33</b>
Gaza	1	2	4	3	123	181	25	64	49	<b>403</b>
<b>Total</b>	<b>367</b>	<b>224</b>	<b>150</b>	<b>109</b>	<b>440</b>	<b>992</b>	<b>1376</b>	<b>1332</b>	<b>1161</b>	<b>5093</b>

\* This number is not absolute as a detainee who was located in the past and for whom there was a new tracing request, is traced as a continuation of the previous location.

General Security Service Law

To date the GSS has acted while its activities, and even its existence, are not anchored in law. For the past several years, the Ministry of Justice has been preparing draft legislation which would "legalise" the existence of the GSS and its activities. In the first drafts of the proposal, an article concerning the permits to GSS interrogators to use physical means against the interrogees was included. HaMoked, together with other human rights organisations, vigorously acted to remove this article from the proposal, which would have legalised torture.

The proposed GSS Law, placed before the Knesset on 23 February 1997, did not include an article legalising torture. Officials in the Ministry of Justice noted that the article was removed from the proposal out of fear that it would delay the law's passage, and said the directive would be placed in the Order to Prevent Torture, an amendment which has yet to be submitted to the Knesset.

The removal of this article from the proposed legislation is a major success of human rights organisations. With this, the proposal has other problematic articles. The proposal awards the GSS extensive powers and authorities, while placing strict restrictions on the availability of information concerning the GSS. Article 17 of the law provides exemption from criminal liability for GSS employees or those acting on their behalf, concerning actions "done in good faith and in a reasonable manner." Human rights organisations are currently examining the law and considering their reaction.