

# KEPT IN THE DARK

Treatment of Palestinian Detainees in the Petah Tikva  
Interrogation Facility of the Israel Security Agency

October 2010



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HAMOKED

המוקד להגנת הפרט

Center for the Defence of the Individual

هموكيد - مركز الدفاع عن الفرد

ב'תשל"ם  
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Researched and written by Adv. Yossi Wolfson

Edited by Michelle Bubis

Data coordination by Noa Atlas, Orly Barmak, Einat Gayer, Gilat Fisher, Soud Jammal, Hiyam Maddah, Noam Preiss, Noam Raz

Affidavits taken by Adv. Hisham Abu Shehadeh, Adv. Tagrid Shabita

Testimonies gathered by Musa Abu Hashhash, 'Atef Abu a-Rub, Salma a-Deb'i, Iyad Hadad, Kareem Jubran, 'Abd al-Karim Sa'adi

Legal advice by Adv. Sigi Ben Ari, Adv. Hava Matras-Irron, Adv. Daniel Shenhar

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**B'TSELEM – The Israeli Information Center for Human Rights in the Occupied Territories** was founded in 1989 by a group of concerned Israelis. It endeavors to document and educate the Israeli public and policymakers about human rights violations in the Occupied Territories, combat the phenomenon of denial prevalent among the Israeli Public, and help create a human rights culture in Israel.

**HaMoked – Center for the Defence of the Individual**, founded by Dr. Lotte Salzberger, is a human rights organization established in 1988 against the backdrop of the first intifada. HaMoked's mandate is to safeguard the rights of Palestinians living under Israeli occupation. HaMoked acts to enforce standards and values rooted in International Humanitarian Law and International Human Rights Law.

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## Executive summary

The treatment of detainees is one of the benchmarks of human rights protection. Since their inception, HaMoked: Center of the Defence of the Individual and B'Tselem have addressed mistreatment of Palestinian residents of the Occupied Territories held in Israeli detention facilities. Over the years, the manner of mistreatment has changed, partly due to pressure from human rights organizations and international bodies, yet the phenomenon persists.

This report is based on the testimonies of 121 Palestinians who were held, some for up to two months, in the Petah Tikva interrogation facility of the Israel Security Agency (ISA, also known by the Hebrew acronyms shabak or shin bet) in the first and last quarters of 2009. The testimonies indicate clear patterns of treatment of detainees by the authorities. Certain patterns were reported by all detainees, others by most or some of them.

The testimonies show that each time people were arrested from their homes, they were taken in the middle of the night. In 30 percent of the cases, security forces used physical violence toward the detainee during arrest or en route to the detention facility. The detainees related that they were taken in military vehicles; some reported that they were forced to crouch or lie on the floor rather than sit on the bench seat of the vehicle. They were not allowed to bring articles they would need in detention that are allowed under prison regulations, and articles they wore, such as watches, were taken from them.

From the time detainees arrived at the Petah Tikva facility, they were kept in interrogation rooms or in cells. Almost all the floor space in these tiny cells is taken up by the thin mattress provided to the inmate, or several mattresses in those cells intended for more than one person. The ceiling is so low an inmate can touch it. Most of the cells are windowless, therefore night and day are undistinguishable. The ventilation was artificial at all times, and 26 percent reported that the air flowing into the cell was either overly cold or overly hot. The artificial light was kept on around the clock, causing sore eyes, impaired vision and difficulties falling and staying asleep. The walls of the cells are grey and very rough and bumpy, so it is impossible to lean against them. Seventy-eight percent of the detainees were held in isolation in these cells, without the companionship of another inmate, for at least part of their time in the facility.

The hygienic conditions were appalling: the squat toilets in the cells reeked; the mattresses and blankets were filthy; the inmates were not issued materials for cleaning the cells, except in a few isolated instances, following insistent demands; 35 percent of the detainees were not provided with a change of clothes for extended periods and even for the entire duration of their stay; and 27 percent

were denied showers. Many reported they developed skin conditions as a result of their incarceration in the facility.

In the interrogation rooms, the detainees were kept bound to a chair fixed to the floor, preventing nearly all movement. At times, the detainees were kept in this position continuously for hours, with only short food and toilet breaks. In some cases, they were held in the room in this position without being interrogated, and with no interrogator present. Thirteen of the detainees reported sleep deprivation during interrogation lasting over 24 hours. Some detainees were interrogated continuously for a stretch of several days, with only short sleep breaks. The detainees reported the conditions in both the cell and the interrogation room damaged their ability to sleep, even when sleep was not interrupted.

Thirty-six percent of the detainees reported that interrogators cursed and verbally abused them; 56 percent reported they were threatened by interrogators, including threats of violence. Ten percent reported being threatened with a "military interrogation," a vague expression, understood to mean extremely violent measures. In 2007, the state undertook to desist using this expression, following the previous joint report of HaMoked and B'Tselem. Eleven of the detainees surveyed reported that the interrogators used physical violence against them. Many reported that the interrogators used family members as a means of pressure: In one case, a 63-year-old widow was brought to the facility, apparently so that her incarcerated relatives could see her in detention. She was released without charge two days later.

42 percent of the detainees were still held in the facility a week or longer after their interrogation ended and in the conditions described, some of them for a month or longer.

The treatment of detainees, as revealed in the report, is consistent with an interrogation doctrine that seeks to break the will of the detainee by inducing shock and anxiety, completely removing him from his normal life, and subjecting him to extreme deprivation of sensory stimuli, movement, and human contact. Added to these is the induced enfeebling of the detainee by means of sleep deprivation, food reduction, exposure to temperature extremes, and causing pain, mainly through forced stiff postures. This doctrine appeared in the CIA interrogation manuals of the 1960s and 1980s, used as guides to interrogators operating in Latin American dictatorships. According to the manuals, these methods result in the mental regression of the detainee, who becomes putty in the interrogator's hands.

The treatment of detainees as described in this report receives the backing of state officials in various forms. Regarding ISA abuse, since 2001, 645 complaints have been made to the Ministry of Justice concerning Israel Security Agency interrogators. Not one complaint has resulted in the opening of a criminal investigation. Regarding violence by soldiers during arrest, the official Israeli position is that such violence is forbidden. However, despite extensive

documentation, the practice is still prevalent, and it seems the soldiers receive mixed messages from their commanders, to say the least.

The measures depicted in the report constitute cruel, inhuman, and degrading treatment, and in some cases constitute torture. All are prohibited, absolutely and without exception. International law unequivocally stipulates that no state of emergency may be invoked to justify such acts.

In 1999, the Israeli Supreme Court held that ISA interrogators were not authorized to deviate from standard practice in a police interrogation, which must be conducted in a reasonable and fair manner, without violating the detainee's dignity. The court nullified a number of interrogation methods used at the time by Israel Security Agency interrogators. The findings of the present report indicate that ISA interrogation methods changed significantly since that time. However, it appears the ISA has not accepted the basic principle arising from this landmark judgment that the ISA is subject to the same rules of interrogation as the Israel Police. ISA interrogations are still based on cruel and abusive measures, in clear violation of the ordinary rules of interrogation governing police interrogations in Israel.

The State of Israel attempts to justify the severe infringement of detainees' rights as necessary to thwart acts of terrorism. This claim is insufficient to justify a violation of the absolute prohibition of cruel, inhuman, and degrading treatment and of torture. Furthermore, this report clearly demonstrates that Israel's framing of the public debate on interrogation methods as the "ticking-bomb dilemma" is artificial: most of the detainees interviewed for this report were not suspected of serious offenses; some were only accused of what is essentially political or religious activity. Also, the fact that the ill-treatment of detainees continued even after the conclusion of their interrogation refutes the claim that it is only used to thwart acts of terrorism.

HaMoked and B'Tselem suggest that examination of Israel's treatment of Palestinian detainees cannot rest solely on the security threats these detainees allegedly pose, but must also include the relevant context of their national identity and their activity against the Israeli occupation. The abuse of detainees is made possible due to the dehumanization of the Palestinian population. This perspective offers a better explanation of the practice of ill-treatment than the artificial "ticking-bomb dilemma," dominating public debate.

The State of Israel must root out all abuse in interrogations. This requires taking action that will lead to three indispensable results: stopping human rights violation of detainees, bringing the offenders to justice, and providing compensation to the victims. In addition, it is important to conduct a thorough, independent, and transparent investigation of these ostensible breaches and to publish the findings in full.



# Introduction

On 31 March 2009, a rare incident took place at the Petah Tikva interrogation facility of the Israel Security Agency (ISA, also known by the Hebrew acronyms shabak or shin bet): two officials from the Ministry of Justice came to examine the detention conditions in the facility. The report made following their visit was not published, but was provided to HaMoked: Center for the Defence of the Individual after a detainee mentioned the visit in a testimony he gave to the organization. The report, written by Attorney Naama Feuchtwanger, states that, "while official visits are usually made to detention facilities, they are generally not made to ISA detention facilities."<sup>1</sup> The report mentions the formal arrangement that was instituted to allow such visits by certain attorneys from the State Attorney's Office who are explicitly authorized to do so, and notes that, "to date, only a small number of visits have been made in this framework." The visit was coordinated in advance with the ISA, and ISA officials accompanied the visitors, also during conversations with the detainees, and served as translators.

The present report invites the reader to make a more probing visit to the Petah Tikva facility, to hear the detainees' own descriptions of their experiences and to learn about daily life in the facility. This will shed some light on a facility that is cloaked in such great secrecy that even governmental officials responsible for oversight are not given free access to it.

This publication joins a long list of publications and legal battles by HaMoked and B'Tselem on this subject over the years.<sup>2</sup> The present research did not aim to document the most serious violations of Palestinian detainees' human rights. On the contrary, we sought to depict the routine, as it emerged from interviews with Palestinians who were held in the ISA facility in the space of one year.

Our research uncovered serious violations of the detainees' human rights, beginning from the moment they were arrested and ending with their transfer from the facility. The detainees were subjected, among other things, to acts of violence;

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1. "Report of Visit to ISA Detention Facility – Petah Tikva," letter of 21 June 2009 from Attorney Naama Feuchtwanger, of the Advice and Legislation Department (Criminal), State Attorney's Office, to the Attorney General.

2. HaMoked has handled over the years hundreds of complaints relating to prison and interrogation conditions and has initiated dozens of legal proceedings on the subject. B'Tselem has published many reports on the subject, among them *The Interrogation of Palestinians during the Intifada: Ill-treatment, "Moderate Physical Pressure" or Torture?* (1991), *The Interrogation of Palestinians during the Intifada: Follow-up to March 1991 B'Tselem Report* (1992); *Torture during Interrogations: Torture of Palestinian Detainees; Testimony of Interrogators* (1994), *Routine Torture: Interrogation Methods of the General Security Service* (1998). The two organizations jointly published *Absolute Prohibition: The Torture and Ill-treatment of Palestinian Detainees* (2007).

to cruel conditions such as narrow, windowless cells; to periods in isolation; to appalling hygienic conditions; to prolonged cuffing in the interrogation room, making it impossible for them to move their bodies; to sleep deprivation; and to other means that harmed them both physically and mentally. These means, separately and certainly cumulatively, amount to cruel, inhuman, and degrading treatment, and in some of the cases constitute torture.

The first part of the report presents a brief explanation of the methodology, followed by a factual portrayal of the routine in the facility as described by the interviewees. The second part analyzes the findings and discusses two fundamental questions: Are the violations of detainees' rights the result of systemic method of operation? And what is the context for explaining the harm caused to the detainees? The third part of the report examines the findings in light of international law and Israeli law. Special attention is given to examining implementation of the Israeli Supreme Court's historical judgment prohibiting torture in Israel, given a decade ago. Last, conclusions and recommendations of HaMoked and B'Tselem are presented, in brief.

The official Feuchtwanger report makes two recommendations: that detainees be transferred from the facility to regular prisons as soon as their presence in the facility is no longer necessary, and that they be given the last meal of the day, which was served in the afternoon, later in the day, or that they be fed again in the evening. The present report reveals much more serious and fundamental problems.

## Research methodology

This report is based on the testimonies of 121 Palestinians from the West Bank who were held in the ISA's interrogation facility in Petah Tikva, allegedly under suspicion that they had carried out offenses defined as security offenses. The facility is used to hold detainees for interrogation; afterwards, they are either transferred to another facility and indicted, or released.

The Palestinians interviewed for this report were held in the facility in either the first quarter or the last quarter of 2009: 62 were held at some point throughout January to March, and 59 at some time throughout October to December. The timeframe was chosen so as to ensure, to the extent possible, that the findings of the report would reflect normal routine in the facility, unaffected by unpredictable events that could temporarily alter routine. According to Feuchtwanger's report, the maximum capacity in the facility is 42 detainees.<sup>3</sup>

Every year, HaMoked handles thousands of requests to locate detainees, as the Israeli authorities do not fulfill their obligation to inform families where their relatives are being held. For this report, HaMoked and B'Tselem contacted Palestinians who had been located at the Petah Tikva facility during the relevant period. Some had since been transferred to prison, and gave their testimonies to attorneys who visited them in prison. Others had been released and gave their testimonies at home. Follow-up conversations were made when necessary.

To ensure a high level of credibility, all the testimonies were given in reply to a uniform set of open-ended questions. The detainees were informed of the purpose of the interview and were asked to relate the events that had occurred. One disadvantage of this method is that many details were lost, especially in the interviews that were conducted in prison, in far from optimal conditions. In these cases, the detainees did not have the leisure to try and recall all the experiences they had undergone since their arrest; the interview was held within strict time limits set by the facility authorities; and the atmosphere was not conducive to holding a relaxed conversation that would enable recollection of traumatic events. It is a fair assumption, therefore, that at least some of the detainees did not report all the measures that had been taken against them, but only those they could immediately recall during the interview.

Some of the detainees agreed to publication of their full names, while others preferred that their identity not be revealed. Regarding several detainees,

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3. See footnote 1.

complaints were filed with the authorities and additional material, such as medical files, was gathered. This material aided the preparation of the report.<sup>4</sup>

Of the 121 detainees, 117 were men and 4 were women. 18 were minors (under the age of 18) at the time of their arrest. 38 detainees were 18 to 20 years old, 54 were 21 to 30 years old, 7 were in their thirties, and 3 were in their forties, at the time of their arrest. One was a 63 year-old woman. Thirteen of the detainees were school pupils, and 28 were students in other frameworks. 17 were married, and 1 was a widow. Some of the detainees did not discuss their marital status.



Rabe'ah Sa'id: a 63 year old widow detained in the facility

The vast majority of detainees – 108 – were from the northern West Bank. Another 9 were from Hebron District, 2 from Bethlehem District, and 2 from Jericho District. Sixty-nine were from small towns and villages, 17 from refugee camps, and 35 from cities.

Prior to their arrest, 49 detainees were laborers or worked as employees in the service sector, 13 earned a living as craftsmen or as small-business owners, and 4 were farmers. Income data on the rest of the detainees was not obtained.

The report does not provide a statistical sample of the facility's detainees. However, given the large number of detainees, and the fact that the only criterion for their selection was that their families had asked for HaMoked's assistance in locating them, their testimonies offer a substantive insight into routine at the facility.

The report centers on conditions at the facility and on the interrogation methods used there. Ostensible breaches of law and infringement of the detainees' rights in other areas that were revealed in the course of research are not discussed.

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4. The Israel Prison Service submitted to HaMoked only partial information on the medical files of several detainees. Consequently, HaMoked filed a petition to Israel's High Court of Justice on 16 June 2010 to receive the full medical documentation. HCJ 4677/10, *HaMoked: Center for Defence of the Individual v. the Israel Prison Service*. See <http://www.hamoked.org/Document.aspx?dID=Updates1031>.

## Part 1

# Routine treatment of detainees at the facility

Analysis of the detainees' testimonies reveals a recurring pattern in the authorities' handling and treatment of them while they were detained. This does not mean that all the detainees were treated in absolute uniformity. Some features of the treatment recur in every case, while others appear in most, or in an appreciable number, of cases. Analysis of the patterns that emerge is presented in the second part of the report.

### Arrest

Many of the detainees were arrested at home, in the early hours of the morning. Many reported that they were awoken from sleep by the sound of banging on the door or from the door being blown open. Others awoke to find themselves surrounded by soldiers.

Many detainees said that the soldiers behaved violently and spoke to them rudely during the arrest, whether at the detainee's house, at a checkpoint, or under other circumstances. Twenty-seven reported that the house had been damaged during the course of the arrest. Thirty-six detainees reported that they suffered physical violence at the time of the arrest, or in the vehicle into which they were put immediately after the arrest.

'Ali Shtiyeh, a psychology student from the village of Salem near Nablus, was 23 at the time of his arrest. He described the event:

At about 2:00 A.M., on 14 February 2009, I was sleeping at my parents' house. It has two stories. I was in my room on the ground floor. I woke up to the sound of noises inside the house and suddenly saw soldiers in my room [...]. When I gave them my name, they began punching and kicking me. Some of them also hit me in the chest, shoulders, and back with their rifle butts. The soldiers broke the clothes closet, and ripped the mattress with a knife. They broke the computer, TV and stereo system in my room.

In many cases, the soldiers did not allow the detainees to say goodbye to their families. When soldiers came to arrest Hindawi Kweirek, a sociology student from Nablus who was 19 at the time, his father asked them to enable him to say goodbye to his brother, who had cancer. The soldiers refused. The brother died while Kweirek was in detention.

In some cases, the detainee was not allowed to dress and was taken in his pajamas, sometimes barefoot. In none of the cases was the detainee told to take clothes,

a toothbrush, or other basic items that detainees would need and are allowed to keep in Israeli prisons.

Yusef Tartir, a 16-year-old high-school pupil from Nablus, was arrested after stabbing a soldier at a checkpoint. He related that he was treated very violently:

Lots of soldiers came into the bus and took me out, to the road. I was hit in the head and lost consciousness for a few moments. Then a lot of soldiers, more than ten, started hitting me with whatever came to hand. After that, they put me in a room at the checkpoint. They undressed me completely, cuffed my hands behind my back and tied my legs. They threw me to the ground. There were lots of soldiers around me, and they all began to hit me with their weapons and to kick me. I was half in a faint. Mostly, I remember the feet kicking me [...]. One soldier dressed me because I was in so much pain that I couldn't dress myself.<sup>5</sup>

### **Transport to the transit point**

After the arrest, the detainees were taken, handcuffed and blindfolded, to an army vehicle. Forty detainees stated that they were made to sit on the floor of the vehicle. In some cases, they were required to kneel on the floor, head facing down, throughout the entire journey. In some instances, the detainees were made to lie stretched out on the floor of the vehicle. Several detainees reported that a dog was held next to them in the vehicle during the journey. Many reported that the soldiers were extremely violent towards them.

Twenty-seven detainees reported suffering incredible pain, loss of sensation, swelling, wounds, and scars because their hands were bound too tightly with plastic cuffs. In many cases, their request to loosen them was answered by a further tightening of the cuffs. The symptoms often continued long after the cuffs were removed. In April 2010, following a petition filed by the Public Committee Against Torture in Israel, the state informed the Supreme Court about a new procedure that was intended to prevent painful cuffing.<sup>6</sup> The new procedure was instituted after the period reviewed in this report. However, information gathered by HaMoked and B'Tselem indicates that soldiers continue to cuff detainees painfully after their arrest. The fact remains that the authorities did nothing to stop the practice, which was known for years, until just prior to the court hearing.

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5. According to press reports, the stabbed soldier suffered a light to moderate injury. See, for example, the report in Ha'aretz: <http://www.haaretz.com/print-edition/news/islamic-leader-tells-haaretz-temple-mount-clashes-won-t-end-until-occupation-of-jerusalem-does-1.6639> (site visited on 26 Oct. '10).

6. HCJ 5553/09, *Public Committee Against Torture in Israel v. Prime Minister of Israel*.

The testimony of Munir Mahrum, from Nablus, who was 23 when arrested, is indicative of the routine practice in this matter.

Fifteen minutes later [after the arrest], they took me down to the jeep. They blindfolded me and threw me into the middle [of the jeep]. They told me to kneel on the floor. There were five or six soldiers surrounding me. I think that two of them, not all of them, hit me with their helmets during the whole trip. Each time I asked them to loosen the cuffs, which were very tight, one of them hit me. I told him to look at my hands, because I felt something was happening to them. To this day, my right thumb shakes as if it's still numb. At Huwara, they took me to a sergeant. He took off the cuffs. My hands were swollen and blue.

## **Transit stage**

Most of the detainees were taken to an interim location, or a number of interim locations one after the other, where the authorities carried out administrative procedures and passed the detainee from hand to hand. An interim location can be a settlement, an army base, a checkpoint, or even a road intersection. In most cases it is a temporary detention facility in the West Bank. The administrative procedures typically included a brief medical interview or superficial medical examination and depositing of the detainee's personal items. Some of the detainees were treated violently and were degraded during this stage, too.

Ahmad Abu Dra', a high-school pupil from the Balata refugee camp in Nablus who was 17 at the time, related how soldiers humiliated him while he was blindfolded and his hands were bound behind him with plastic cuffs.

One soldier grabbed my shirt near my left shoulder and started to run. I was wearing two pants – pajamas and jeans on top of them. The jeans fell a bit and I couldn't run. I asked them to let me pick up my pants, but they refused. The soldier pulled me with force while my pants were down. I could barely run, but I had no choice. I barely kept from falling. After a while, we stopped. I heard a lot of soldiers around me. They were all laughing. One soldier grabbed me and told me to walk. I did as he said, and suddenly my head hit a wall and I fell on my back. They all laughed.

Twenty-five detainees related that they were held for a long time outside, immediately after the arrest or during the transit stage. Many of the detainees were not given an opportunity to take warm clothes, even though they were held out in the cold and sometimes in rain.

Some of the detainees were kept for hours, and even days, at an interim location. Some were held for hours without being transferred to a proper cell, and were

not even provided food. Then, another force took them to the ISA facility in Petah Tikva. In some cases, the soldiers did not reply to detainees' questions as to where they were being taken, increasing feelings of loss of control and disorientation.

During intake at the Petah Tikva facility, the detainees were subjected to a full body search in the nude, and another medical examination. Some were then taken to cells, and others to interrogation rooms.

### **Detention at the Petah Tikva facility**

During the time they were held at the facility, which lasted in some cases some two months, the detainees were either held in their cell or in the interrogation room. When they were being taken from one to the other, their hands were bound and their eyes covered. None of them were taken, even once, to a yard for exercise.

The detainees were taken out of their cells only for interrogation, in a rare meeting with an attorney or with a representative of the International Committee of the Red Cross, during showers or visits to the medical clinic, or when they were taken to a military court to extend the detention. The latter did not occur frequently, as the extensions were generally given for eight days and more. A special directive enables extension of the detention also when the detainee is not present, as occurred in at least one case. Meetings with ICRC representatives took place in a designated room, usually relatively late in the detention period. Several detainees stated that they met such a representative only in the fourth week of their detention. Meetings with attorneys, if they took place, were no more than a brief exchange in the military court. Also, showers were usually taken outside the cell. Some detainees were taken to the facility's medical clinic.

### **The cell**

The testimonies indicate that there are several kinds of cells in the Petah Tikva facility, differing primarily in size. The smallest cells can contain only one person, with the thin mattress covering almost all the floor, apart from a squat toilet. Detainees estimated the size of such cells at about 1.5 X 2 meters. The larger cells hold groups of detainees whose interrogation has ended, and are also only big enough to accommodate the mattress given to each detainee. The official Feuchtwanger report corroborates that, "the detention cells are very small (the size differs depending on the number of detainees the cell is supposed to hold), and are only large enough to lay mattresses for the number of persons occupying the cell."<sup>7</sup> At least some of the cells had such a low ceiling that detainees reported they could touch it when standing.

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7. Feuchtwanger, see footnote 1.

One cell (at least) is referred to as “the VIP cell.” It is not underground, as is the case with the other cells – or at least they are perceived by the detainees as being underground. The “VIP cell” has a small window facing outdoors, so day and night are discernable. Another advantage is that it has a shower; none of the other cells have a shower, apart from the biggest cell for holding groups of detainees.

The walls of the cells are concrete-grey and rough, with pieces jutting out, so that a person cannot lean against them. Movement is highly limited, as the detainee cannot lean against the wall when either standing or sitting, and the small space restricts walking to a few steps back and forth.

The cells are ventilated by what appears to be an air-conditioning system controlled from outside the cell. Thirty-one detainees stated that the air flowing into the cell was too cold or too hot, and that their complaints about the temperature were ignored. Maher Samaru, an economics student from Nablus who was 24 when arrested, suffers from asthma. He had an asthma attack due to the suffocating conditions in the cell. He was only provided with an inhaler after the attack, and another detainee was put in the cell to watch over him. Another detainee, a minor who is asthmatic, had an inhaler from the start. He reported that his asthma worsened in the cell and that he had to use the inhaler more often than before.

The detainees stated that an electric bulb lights the cell 24 hours a day, and the detainee is unable to change its intensity or turn it off. This creates severe distress and causes eye pain, headaches, and vision problems.

Apparently, at least one of the cells is completely soundproof. In the other cells, the detainees could hear disturbing sounds, such as monotonous dripping of water on tin or the banging of metal doors, and also sounds that eased the sense of isolation and disorientation in time, such as other detainees calling worshippers to prayer. Some of the detainees noted that the monotonous noise of the ventilation system disturbed their sleep.

Ninety-four of the detainees were held in isolation during part of their time at the facility. This mostly occurred at the beginning of the detention period, but some were held in isolation again later on, at times even after their interrogation had been completed. A person held in isolation has no contact with other detainees, and not even with the jailer who bring his meals, as they are passed through an opening in the cell door.

Muhammad Qut, an education student from the village of Madama, stated that he had been placed in isolation after denying the allegations against him during interrogation.

[The interrogator] took me down to the cell. He said that there was no need to go back to him again, that he was sending me to Cell 9 and wouldn't call for me. If I wanted to talk to him and confess, I should knock on the door of the cell and the jailer would bring me to him to confess.

He took me to the cell. It's like a small grave, about 2x3 meters in size. There's a very small toilet in it and a disgusting smell, a damp smell that's hard to describe. The light is red and strong, and it makes your head and eyes hurt. I felt dizzy inside the cell. It's about two meters high. When you stand, if you're a bit tall, you can touch the ceiling.

There are a mattress and a blanket that must be dozens of years old. It's a joke to call them a mattress and blanket. The walls are grey. If you hit the wall, your hand gets wounded, because the walls are rough.

When you're alone, you feel frustrated. You feel like hanging yourself. If you don't have strong faith in God, you can easily kill yourself. [We] stayed alive in the cell only because death forgot us, and not for any other reason.

I stayed there alone for about ten days. I had enough. I remembered that Doron [the interrogator] said that when I finished everything I had to say and confessed to the accusations, he would move me immediately to prison. I decided to go up to him and accept whatever happens. I thought to myself, I want to get out of here, because Doron said that if I don't confess, I'll sit alone in the cell for a hundred days. At the time, I had said to him, "so be it." But I couldn't stand this suffering. I barely survived ten days. I counted the days based on the prayer times and the call to prayers that the other prisoners made. I banged on the door for the jailer and asked him to take me to Doron.

The effect of isolation varies from person to person. Marwan Ne'irat, a plasterer and father of six from the village Meithalun, who was 45 when arrested, related in his testimony:

At first, I was alone [in the cell]. I told them that I'm a sick man, and that if something happens when I'm alone, nobody will know. So they put another person in the cell. It didn't bother me that he was an informer who was supposed to get me to talk. When you're alone, you need to talk to somebody, even the wall. So you're happy that they bring in somebody, it doesn't matter who. I'll tell you something ironic: when the interrogator left me tied to the chair for hours [in the interrogation room], I hoped he'd come back, even if it meant more punishment for things he might force me to say – just so I wouldn't be tied to the chair, alone, in a lonely and frightening place.

## **Hygienic conditions**

Every cell has a squat toilet, with the mattress or mattresses taking up the rest of the space. Detainees who are not physically fit have trouble using it. For instance, Rabe'ah Sa'id, a widow and mother of six from Nablus who was 63 at the time, said that she was unable to use the toilet at all.

The detainees consistently described the cells as reeking and moldy, with a stench of sewage filling the cell, especially after a detainee relieves himself. In some cases, the sewage pipe was blocked and the toilet emptied very slowly. In others, wastewater from the toilet or water from the faucet flooded the cell.

Many detainees stated that the cells were filthy, and were either not cleaned at all by the facility staff or were not cleaned often enough to ensure basic hygiene. The staff did not give detainees materials to clean the cells themselves. Several detainees managed to obtain such materials after repeated insistence.

All the detainees were provided with a thin mattress and a few blankets, which they also described as moldy and smelly. Not one testimony mentioned that the dirty blankets were replaced by clean ones; all requests for a change of blankets were refused.

Most of the detainees were not provided with basic hygienic items, such as toilet paper, soap, towel, toothbrush, and toothpaste. Some received them only after a long time in detention, or following repeated demands, or after they complained to the ICRC.

Forty-two detainees volunteered the information that they were not provided a change of clothes when necessary, including undergarments. Thirty-two of them were given a change of clothes only after they had been at the facility for more than a week, or were not given a change of clothes at all during their detention.<sup>8</sup> As mentioned above, the detainees were arrested in the clothes they were wearing, and were not allowed to take a change of clothes with them. In many cases, the first time the detainee was given a change of clothes was after he or she met with a representative of the ICRC. For example, Qaysar Diq, a resident of a-Diq village who was 24 when arrested, related that he remained in the same shirt and pants for 65 days, and that two weeks passed before he was given a change of undergarments, after repeated pleading.

Marwan Ne'irat was arrested at Allenby Bridge, which connects the West Bank with Jordan, on his return from Jordan.<sup>9</sup> He related:

They let me take a shower three days after I asked for one. They didn't give me a change of underwear. Johnson, the interrogator, shouted that I was disgusting, that I smelled stinky and disgusting, and told them: "Take him away from me, he stinks." He insulted me that way a few times. He pretended that he couldn't stand being next to me because I stink, and left the room. I really did smell, but it wasn't my fault. I was very offended. I

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8. The remaining ten were given a change of clothes at the end of the first week, or did not clearly state when they received a change of clothes for the first time.

9. See biographical details on p. 18.



told him, "I'm a person who keeps clean, I shower every day. You don't give a change of underwear. What do you want from me? If you don't have underwear to give me, open my suitcase. You know I was on a trip and came back with a suitcase, so take out underwear from there." They refused. It took them twenty more days to give me a change of underwear.

A document presented to detainees at intake details the conditions to which they are entitled and their "duties" toward the facility authorities. Showering is listed as a condition to which they are entitled. However, 35 detainees reported that they were not given the opportunity to shower for part of the time. Even when they were given access to a shower, some were not given soap and a towel. In some cases, detainees were provided a small, hard piece of soap and a towel that disgusted them. Some detainees reported that they were given a very short time to shower. One was convinced that there were no showers at the facility.

Many of the detainees reported that they developed skin problems during, and after, their detention at the facility.

### **Treatment of minors**

Eighteen of the detainees were minors (under the age of 18) at the time they were arrested. Their testimonies indicate that their legal status as minors had no effect at all on their treatment by the soldiers or the facility authorities. Like the adults, they were arrested at home, in the dead of night, and soldiers treated them violently on the way to the Petah Tikva facility. Their descriptions of the conditions at the facility, including the physical state of the cells and the denial of basic hygiene, match the adult testimonies. During interrogation, they, too, were held for many hours on a chair, with their hands cuffed behind the backrest and their legs sometimes bound. Like the adults, the minors did not receive legal advice while they were held at the facility.

Only in one matter did the authorities take care to comply with a directive regarding minors: separating them from the adult detainees. As the minors were not spared the manipulation of transferring them to "informer wings," the special care given to separating them from adults is somewhat absurd: in these wings, the informer was placed in a cell adjacent to that of the minor, and solicited him to confess to the allegations against him through a small opening between the cells.

## **Food**

Some of the detainees were not fed in an orderly manner, or at all, on the first day of their detention. Most of the arrests were carried out in the early hours of the morning, and the first interrogation at the Petah Tikva facility sometimes lasted until the early hours of the following morning, without a break for food. Some detainees were given their first meal on the way to the cell at the end of that interrogation. The denial of food can only in some cases be explained by missing set mealtimes at the facility; even then, it stands to reason that the interrogators are capable of arranging for food if they wish. In other cases, detainees reached the facility in time for a meal, yet were denied it.

After the initial interrogation, three meals were served each day, the last in the afternoon. After detainees complained during the visit of officials from the Ministry of Justice, some detainees reported that they were given bread with something to spread on it in the evenings.

A clear majority of the detainees (80 of the 121) stated that food was of poor quality and quantity. One after another described food that was unidentifiable: rice that was undercooked or that was cooked but had grown stale; hard-boiled eggs that had grown stale and had a blackish or bluish hue; chicken with feathers still in it; etc. Many detainees said that the cooked food was served cold. A great many detainees found the food so revolting that they did not touch it or ate only parts of it. Some said that, throughout their detention at the facility, they were constantly hungry, and many reported significant weight loss.

These detainees cannot be accused of fastidiousness. They reported that when they were transferred to “informer wings” in other detention facilities, they were given “real food” of good quality. It is clear, therefore, that the Israeli Prison Service (IPS) is capable of providing decent food, and that the food at the Petah Tikva facility is poor in comparison to the standard at some, at least, of the other prisons in Israel.

Since many detainees reported that they returned dishes without touching them, or having eaten only part of them, it can be assumed that the authorities are well aware that detainees at the facility do not consume enough to meet the nutritional standard set by the IPS.

The authorities are certainly also aware of the detainees’ weight loss during their detention at the Petah Tikva facility. The detainees were weighed at intake, both at the facility and later, at the prison to which they were transferred. HaMoked obtained copies of parts of several detainees’ medical files, in which the weight loss is evident.

## **Treatment of women**

Four women were in the sample of detainees. Their testimonies indicate that they were held in conditions similar to those described by the men: narrow, filthy cells, reeking squat toilets, and constant lighting that induced suffering. They, too, described poor food. Three of the women were held in total isolation, except when female informers were put in their cells. Nili Sa'id described the consequences: "The interrogator said he would make me miss sitting on the interrogation chair. And that's what happened. When I was alone and nobody talked to me, I wanted them to take me to the chair, because there, at least someone would talk to me."

Her mother-in-law, Rabe'ah Sa'id, was held for only one night, in a cell with another woman.<sup>10</sup> They were treated relatively better, as they were held in the "VIP cell" and interrogated with only one hand cuffed to the chair, or with their hands completely free. The other three women were held in the worst of the regular cells, and were denied showers. Their hands were bound behind the backrest of the chair during interrogation.

Interrogation of a woman by a man, in an environment that is predominantly masculine, is threatening even when another woman is present in the room. One of the detainees reported that interrogators swore at her using sexually evocative language. Another, whose husband had been imprisoned for eight years at the time, related that an interrogator asked her rudely if she was pregnant, and threatened to start a rumor that she was engaged in an extramarital affair that had led to pregnancy. Such a threat is not only humiliating and sexually invasive, but also endangers the detainee's reputation and, indeed, her physical safety after returning home. In this way, the interrogator not only exploited the menacing experience of the interrogation itself, but also exploited the witness' underprivileged status and the dangers she faces as a woman in a conservative society.

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10. For biographical details of Rabe'ah Sa'id, see p. 18.

## **The interrogation room**

When the detainees were not in cells, they were usually in interrogation rooms. The time in the interrogation room was sometimes short, and at other times, lasted most of the day, day after day. Many were held in an interrogation room for long periods of time without being questioned, and even with no interrogator present. In certain ways, being held in the interrogation room continued the deprivation of stimuli and enhanced the deterioration in the detainee's physical condition. On the other hand, detainees were relieved by the transfer out of the cell.

Most of the cells are underground, or were perceived thus by the detainees. The interrogation rooms, by contrast, are aboveground and have windows, enabling the detainee to know if it is day or night. Detainees were also able to regain a measure of orientation by noting the time on the telephone on the interrogator's desk or on his watch.

However, the restriction on movement is even greater in the interrogation room. The entire time in the room, detainees sat on a chair with a metal frame, a backrest, and a hard plastic seat, which was anchored to the floor. They sat with their back to the backrest, their hands cuffed behind it. The cuffs were attached to a chain running through a ring in the backrest. Sometimes, the detainee's legs were cuffed to each other, and sometimes also to the legs of the chair. Detainees rarely had one, or both, hands free. In several cases, detainees were required to hold their legs stretched back, behind the front legs of the chair. Often, detainees were bound to the chair, unable to move, from morning until their return to the cell at night, with only short breaks. This occurred day after day, and sometimes even for a whole day and longer. The only breaks from the rigid sitting position occurred when walking to the bathroom and during the short meal breaks, which were provided in a very small cell adjacent to the interrogation room. Several detainees stated that the interrogators prevented them from going to the bathroom, or delayed their going. In some cases, the detainees were not given a break to eat, although they were in the interrogation room at mealtimes.

Consequently, the whole time in the interrogation room, which could last from fifteen minutes or less to a full day and longer (with short breaks), the detainees had almost no chance to move. This constitutes sensory deprivation and weakens the body. Prolonged sitting in the same position prevented the detainees from sleeping and caused intense physical pain.

Detainees reported that the prolonged binding to the chair made their hands and legs numb and caused pain in their arms, back, neck, hip, and waist. Several detainees developed hemorrhoids. Detainees who arrived in the facility with

hemorrhoids reported that their condition deteriorated and that they suffered anal bleeding. Documentation on hemorrhoids and back pain appears also in the medical files of some of the detainees that HaMoked obtained.

Following a petition to Israel's High Court of Justice by the Public Committee Against Torture in Israel, the state announced, in April 2010, that the chain running through the ring affixed to the back of the chair would be lengthened.<sup>11</sup> This is supposed to enable the detainee to hold his hands alongside his body and to move them. The change was instituted after the period covered by this report. However, HaMoked and B'Tselem have gathered information indicating that there has indeed been a change in the binding, so that the detainee hands are cuffed at his side, and not behind the chair. Yet the new practice is no more than a refinement of the detainee's physical position when held in the interrogation room.

Nine detainees reported that they felt cold while in the interrogation room and that the interrogator lowered the temperature on the air-conditioner when he left the room, leaving the detainee helplessly exposed to the increased cold.

## **Cursing and threats**

Forty-three of the detainees reported that interrogators addressed them with swear words and degrading language. Some of the cursing related to relatives of the detainees and to Islam. Most detainees preferred not to repeat the precise words, but described cursing of a sexual or humiliating nature.

Sixty-eight detainees reported that interrogators threatened them. The most severe examples included threats to hold the detainee in isolation for many months, sexual threats, threats of beating, and the threat of a "military interrogation," which the detainees understood to mean intense physical torture. Two detainees were threatened with receiving electric shocks. Another recurring threat was to be held in administrative detention, including threats to extend such a detention indefinitely.

In its response to the previous report by HaMoked and B'Tselem on ISA interrogations, *Absolute Prohibition*, the Ministry of Justice stated on 26 April 2007 that it had been decided that ISA interrogators would refrain, on the whole from using the term "military investigation." Twelve detainees reported use of the term in 2009.

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11. HCJ 5553/09, *The Public Committee Against Torture in Israel v. Prime Minister of Israel* (2010).

## Use of relatives as a means of pressure

Forty-three detainees related that interrogators exploited their relationships with their families to pressure them. Interrogators used swear words relating to family members, especially profanities of a sexual nature regarding women in the family. Interrogators also threatened to detain relatives or harm them. Several detainees were shown family members who had been arrested; in a few other cases, interrogators tried to pressure the detainee by exploiting his concern for his relatives and the fact that he missed them.<sup>12</sup>



'Abd a-Rahim Ratrut, a father of four from Nablus, worked in Israel as a car mechanic prior to his detention, at the age of 40. He stated:

The thing that hurt me most was the interrogator's threat to bring my son 'Adel, who is seventeen, to the facility. It tore my heart. He also said from time to time that he would bring my wife, and that he was prepared to bring all my friends from Nablus to get me to confess.

According to Ratrut, interrogators also threatened to arrange for his mother, brothers, and sisters to be killed, and for the family house to be demolished.

Baker Sa'id, a father of four from Nablus and an owner of a shoe-production business, was 43 in 2009. He was under administrative detention and was brought to the Petah Tikva facility from Ketziot Prison. He was questioned for only two hours during the entire three weeks that he was held at the facility. During the short interrogation, he encountered his brother, 'Ali Sai'd, who was also being interrogated there. It is highly likely that the objective was to pressure 'Ali. Their mother, Rabe'ah Sa'id, 63, and Ali's wife, Nili Sa'id, 33, were also held there at the time.<sup>13</sup> Rabe'ah Sa'id suffers from low blood pressure. She related:

The female soldier [probably a police officer or jailer] and another policeman put me in a small cell, with rough walls and ceiling and yellow lighting that bothered my eyes [...]. I couldn't squat to use the toilet because I suffer from pain in my legs, because of my age [...]. I sat down on the mattress and fell asleep from

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12. For a review on use of family members in ISA interrogations, see Public Committee Against Torture in Israel, "Family Matters" – Using Family Members to Pressure Detainees (2008).

13. For biographical details on Rabe'ah Sa'id, see p. 18.

sheer exhaustion, I don't know for how long. When I woke up, I started knocking on the cell door to get them to bring a doctor because I felt my blood pressure was dropping, and I was nauseous and exhausted [...]. The policeman and the female soldier came and took me from the cell. I thought they were going to take me to the doctor's room, but they took me to an interrogation room.

The female soldier sat me on a chair that was fixed to the floor and tied one of my hands to it. I told the interrogator that I wouldn't cooperate and answer his questions unless he called a doctor to come and examine me. I shouted and spoke loudly. I noticed that the interrogator didn't speak a lot. Later, I was told that he did that so I would continue shouting and asking for treatment, while they held my sons, Baker and 'Ali, in the next room. My sons heard me shouting in pain and asking to see a doctor, and I didn't even know.

Her grandson, Sa'id Sa'id, an 18-year-old economics student who worked in the family shoe business, was also being held at the facility and heard her voice. Later, she was also shown to her detained daughter-in-law, Nili Sa'id. Rabe'ah Sa'id was held for less than two days and then released – but not before she was taken to meet one of her sons.

When I got to the interrogation room, I was surprised to see my son, 'Ali. He was in a state of collapse and was crying because he was worried about me. He told me that he was ready to bear anything at all for the sake of my wellbeing.

Several detainees reported that the interrogators extorted a confession from them in exchange for a telephone conversation with their family. One of these was 'Abd al-Hai Hamad, an economics student from Nablus who was 18 at the time. He gave a confession to the interrogator after he was told that another person had incriminated him. He was brought before a policeman to sign a written confession and was given the standard warning that he was entitled to consult with an attorney. Consequently, he refused to sign before meeting with an attorney. He was put in isolation for several days, and, at some point, an informer was put in the cell with him to persuade him to sign the statement. He maintained his refusal to sign.

After four days, they took me back up to the interrogator. I still insisted that I wouldn't sign anything without talking to an attorney. He said that I must be dangerous, otherwise why would I need an attorney. I was scared. I said, "No, I want to see an attorney so he can give my regards to my family, and not in order to talk about my case, because I don't have anything to hide." He said, "There's a solution. If I let you call your family, will you sign a statement?" I said, "Yes."

He let me talk to my family for two minutes. Then he said my matter was simple, nothing to it, so there was no reason to delay it. In exchange for the conversation with my family, he wanted me to sign a statement. I agreed because I had promised. I signed the confession [...]. He put me back in the cell [...]. I stayed alone for about three days [...].

## **Binding of hands and legs to a metal sheet**

Thaer Abu 'Abda, from the 'Askar refugee camp in Nablus, left school in the ninth grade and began working in a bakery. Later, he opened a family bakery. At 22, he was arrested. In his affidavit, he related:

I didn't know what day it was, and whether it was day or night [...]. The interrogation went on and on. My back started to hurt in the area by my kidneys and hip, and I also felt pain in the back of my neck and in my shoulders. My head hurt terribly. My legs, from the knee down, hurt too. They were quite numb, and I could hardly feel anything. My whole body hurt [...].

When I was in the cell, I had an unbearable headache. I banged on the door and called for the jailer. I asked him to take me to the clinic. He refused and said, "There's no clinic now. Go to sleep"[...]. A few minutes later, he brought me supper. I took the plastic spoon and told him that if he didn't take me to a doctor, I would kill myself. I started cutting my left hand and it bled a bit.

That scared him. He called some other jailers. They came in, cuffed my hands, and took me to the clinic. A doctor treated the wounds and put a sort of black plastic bag on my head for a few seconds and then took it off. I don't know why. I told him I'd done it because I was sick and they hadn't brought me to the clinic, and that anyway, my interrogation was over, so why shouldn't they transfer me to prison. I had already signed the last statement by then.

The doctor didn't say anything. He just gave me a small, brown tranquilizer pill. He handed me over to the jailers, who took me back to the same cell, but now there was a kind of metal sheet, about the size of a door, inside it. There were rings along the edges of the metal sheet, and a mattress laid on it. They laid me down on the mattress and tied my hands and legs to the rings, so I was in a crucified position. They left me like that until morning.

I yelled all night long. I didn't get a wink of sleep. I felt like my hands and legs were being ripped off me, and that my back was about to break. I yelled all night, and they pretended they didn't hear me.

The next day, they took me to Megiddo [Prison].

Abu 'Abda's testimony is supported by his medical file. According to the file, on 22 March 2009, he was brought to the clinic complaining of a headache, dizziness, and lower-back pain, and was given one tablet of Optalgin (a pain-killer). The next day, he was brought to the clinic and the physician reported a complaint of "general pressure", and gave him Calmanervin (a sedative). A day later, he arrived at the clinic with wounds that the physician noted he had inflicted on himself. The file also includes a directive given by the head of the facility to bind Abu 'Abda's hands and legs to a bed for twenty-four hours – an unusual action, which appeared in only one other testimony.<sup>14</sup>

On 7 July 2009, HaMoked filed a complaint about the incident to the Attorney General and to the attorney in charge of the ISA's Inspector of Complaints by Interrogees. After the State Attorney's Office replied that it would not deal with the complaint, HaMoked filed a new complaint with the Israel Police National Unit for the Investigation of Serious and International Crime and with the Israel Police National Unit for the Investigation of Prison Service Personnel. On 18 April 2010, HaMoked was notified that the complaint had been passed on to the Officer for Prisoner Complaints in the Ministry of Public Security. To date – October 2010 – HaMoked has not received a substantive response from any of these entities.

## **Sleep deprivation**

Many detainees reported severe sleep deprivation, due to the means described above or to being held for long periods in an interrogation room, with very short breaks back in the cell. Thirteen detainees stated they had been denied sleep for more than 24 hours. Detainees reported that the sleep deprivation resulted in trembling, eye pains, headaches, and a drugged feeling, and increased their disorientation and distress.

As previously described, a great many detainees were arrested at home, in the early hours of the morning. The period of detention therefore began with a sleep deficit, as they could not complete the night's sleep. Until late morning, they were handcuffed, often in a way that caused excruciating pain; some were physically

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14. Binding the hands and legs as of suicidal detainees is not unique to the Petah Tikva facility. Similar reports exist regarding the detention facility in the Russian Compound. See, Public Defenders Office, *Detention and Prison Conditions in Incarceration Facilities of the Israel Police and the Prisons Service in 2008*, 14.

abused by soldiers; and all were transferred between vehicles and temporary holding places, and underwent searches, medical checks, and so forth. Most were interrogated shortly after they finally arrived at the Petah Tikva facility, some until late at night, without a moment's sleep.

For example, a student from Nablus, who was 24 when arrested and wishes to remain anonymous, reported that he was arrested at his home at 3:00 A.M. and taken to the Petah Tikva facility. When he was taken into the interrogation room, he caught a glimpse of the jailer's watch and saw that it was 6:30 a.m. He was interrogated the whole day, with no breaks, while bound to the chair, and could not sleep. When he was finally taken to a cell, he asked the time, and the jailer said it was 1:30 a.m. In the cell, he ate for the first time since he was arrested. The interrogation started again at 7:30 A.M.

Fawzi Q'aqurah, an education student from Tul Karm who was 22 when arrested, stated that he was arrested at 2 A.M. and taken to the facility. On arrival, a staff member told him that authorization had been given to deprive him of sleep for 80 hours. He estimates that he slept a total of some three hours during the two and a half days following his arrest.

Nabil 'Antar, a father of three from Nablus and an aluminum shop owner, was 34 when arrested. At the beginning of his detention at the Petah Tikva facility, he underwent an especially long interrogation, during which he was bound to the chair from beginning to end, unable to sleep or move.

Sometimes, I couldn't stay awake and nodded off in the chair. The interrogator wouldn't let me. He shouted and woke me up. He yelled, "Look me in the eye, don't take your eyes off me." He didn't let me stretch my legs. He shouted every time I changed position. Every new interrogator used the same method, and made sure I didn't sleep. [...].

The interrogator shook me to wake me up, and shouted. It was like I was hearing his voice from far away. I didn't really get what he was saying because I was exhausted, wiped out.

I had a headache and my eyes and neck hurt. The back of my neck really hurt, and so did my knees and lower back. My arms hurt from my elbows to my wrists. The palms of my hands really hurt. They felt numb and almost paralyzed most of the time.

After the first interrogation, the detainees were still not allowed to sleep enough. The constant artificial lighting in the cell made it hard for them to fall asleep, and made the sleep itself poor. This was exacerbated by the cold, by the extremely thin mattress, by the stench, by noise made by other detainees, and by jailers' random banging on the door, according to several detainees. Those whom soldiers beat

especially severely during the arrest, or who suffered intense back pain because of the long hours of sitting during interrogation, said they had difficulty sleeping also because of the pain.

A number of detainees described several days in a row of especially intense interrogation, in which they were kept in the interrogation room almost all the time. They were taken for interrogation in the morning and returned to their cells in the early hours of the next morning, only to be awakened for breakfast and more interrogation. Time in the interrogation room was devoted mostly to interrogation, including shouts and threats, by one or more interrogators. However, some detainees recall situations in which the interrogators left the room, leaving the detainee bound to the chair, with a jailer remaining to prevent him from falling asleep.

## **Physical violence**

In the 1990s, the use of direct physical violence against detainees was common ISA interrogation practice. One method formally allowed was “shaking,” which even caused the death of a detainee.<sup>15</sup> This practice, among others, was prohibited by Israel’s High Court of Justice in 1999.

B’Tselem’s and HaMoked’s 2007 report *Absolute Prohibition* documented six methods of direct physical violence used in ISA interrogations: dry beatings (including kicking); maximum tightening of handcuffs; sudden pulling forward of the body; sharp twisting of the head to the side or backward; forced crouching in the “frog” position; and forced bending backwards (the “banana” position).<sup>16</sup>

The present research reveals that at least three of these methods are still in use: dry beatings, sharp twisting of the head sideways or backwards, and sudden pulling of the body. Some of the testimonies on violent treatment do not precisely match one of these methods, but are similar in style. According to the 2007 report, the three other methods were used only against “senior detainees,” i.e., persons who were detained in circumstances indicating that the authorities deemed their interrogation especially important or urgent. These methods were not reported in the present research.

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15. The case of Abd’ a-Samed Harizat. See B’Tselem, *Legislation Allowing the Use of Physical Force and Mental Coercion in Interrogations by the General Security Service*, January 2000: <http://www.btselem.org/english/publications/Index.asp?YF=2000&image.x=11&image.y=7>.

16. See footnote 2.

Eleven detainees reported that interrogators used direct physical violence against them. For example, 'Adel Dweikat, a student of Islam from Nablus who was 25 when arrested, related:

On the evening of Monday, 19 January 2009, I was bound to a chair in the interrogation room with an interrogator who identified himself as "Doron." He got up and walked over to me, and with one hand, pushed my chin so my head turned backward. With his other hand, he punched me in the chest.

Muhammad Nazal, a computer-software student from Qalqilya who was 20 when arrested, described another way of head pushing:

[The interrogator who called himself] Akiva grabbed my face with his hand and pressed hard, turning my head.

'Ali Shtiyeh related another kind of physical violence.<sup>17</sup>

The interrogation lasted from ten in the morning, on 14 February 2009, to four in the morning the next day. There were four interrogators in the room. They slapped me and spit in my face. One of them sat on the table opposite me, put his foot on my chest, and pushed me with his leg, while I was cuffed.

The effect of these violent acts is twofold: not only are they harmful in themselves, but they also lend credence to threats of other forms of violence, including threats of a "military interrogation," increasing the detainee's anxiety.

## **Use of informers and other interrogation methods**

In several cases, interrogators confronted two detainees suspected of the same act. The confrontation was carried out in an interrogation room, or, in a more sophisticated way, by using two adjacent cells designated for this purpose, enabling the detainees to talk with each other through a pipe between them. Another method, which was repeatedly mentioned in testimonies, was polygraph testing (as it was presented to the detainees).

Planting informers in the cell to get detainees to talk was an integral part of the authorities' treatment of most detainees. Unlike the methods described in previous chapters, this measure is not forbidden, though it may be illegitimate in certain circumstances, such as when the informer pretends to be an attorney.

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17. For biographical details, see p. 13.

In some cases, informers were used inside the Petah Tikva facility. Many detainees reported that, part of the time, they were held in a cell with another person, who asked them questions relating to the subject on which they were being interrogated, bothered them in a way that prevented them from sleeping, or acted in an obscene manner (for example, when using the toilet), which increased their distress. A few of the detainees mentioned that they were held with a person resembling Marwan Barghouti, who professed to be his brother and offered to help them. The same informer, apparently, told different detainees that he was an attorney, or that he represented the Palestinian Prisoner's Club, an organization that provides legal aid to detainees.

Many detainees said that persons who appeared to be fellow detainees "prepared" them for being transferred to prison, based on their alleged experience. They told the detainees that once in prison, they would be contacted by a prisoner appointed by Palestinian organizations as a "security coordinator," and that they must tell him everything about their actions.

Many detainees were indeed transferred, temporarily, to other facilities, being told that their interrogation had ended and they were being transferred to a regular prison. They were placed in "informer wings," in cells with informers who tried to get them to provide information. This mostly occurred after the interrogation had reached a dead-end – the detainee had admitted certain things (or nothing) and provided no further information. A considerable number of detainees were transferred to Wing 12 in Megiddo Prison, and the description that follows is based principally on their testimonies. The few detainees who were transferred to "informer wings" at Kishon Prison, the Russian Compound, Ashkelon Prison, and a prison in Beersheva described slightly different, but essentially similar proceedings.

According to the testimonies, upon arrival at the new prison the detainee was taken to a wing holding a large number of persons, whom he assumed were prisoners. Conditions in the wing were described as completely different from the deprivation at Petah Tikva: excellent food, a yard that the detainees are allowed to use, TVs, free access to showers, and so forth. The "prisoners" knew how to impress the detainees and gain their trust: according to detainees, they came across as strictly observant Muslims, making sure, for instance, to hold all required prayers (and sometimes more). Other detainees related that they played intellectual games and sports. They spoke of their impressive past in the Palestinian resistance movement.

After a period of adjustment to the prison, the detainee was approached by a person who identified himself as a "security coordinator" on behalf of Palestinian organizations, and demanded information about the detainee's activity in the framework of resistance to Israel. The pretext given was that the information was needed so that the Palestinian leadership within the prison could determine which wing the detainee would be moved to, send messages to the detainee's associates who were not in prison, and remove suspicion that the detainee was a collaborator.

Many detainees said that they were also promised to be moved to a wing with relatives, to make contact with their families, and to receive a good lawyer. In some cases, a letter addressed to the detainee was "smuggled" into the wing, seemingly from one of the Palestinian organizations, ordering him to cooperate with the security coordinator. While many of the detainees said they suspected that persons held in the cell with them in Petah Tikva were collaborators, most fell for the trap once they were in the "informer wings." After he had finished relaying his incriminating information to the informers, or when he made it clear that he suspected them, the detainee was taken from the cell under various pretexts and returned to the Petah Tikva facility. Naturally, the ISA does not use this maneuver on experienced detainees, who have been interrogated and imprisoned in the past.

### **End of detention in the Petah Tikva facility**

After their transfer back to the Petah Tikva facility, the detainees returned to the previous conditions of alternating between the cell and the interrogation room. Generally, as time passed, they were taken less frequently to the interrogation room, and the interrogations were shorter. At some point, the interrogations stopped altogether, and detainees were held only in their cell for quite a prolonged period, with rare exits to go to court and a daily visit to the shower room (if the cell did not have one). A small number of detainees were kept in isolation at this stage, without the relative relief of being taken to the interrogation room.

Mahmud Za'ul, a construction worker in Israel from the village of Husan, who was 22 when arrested, relates that he was held in isolation for 20 days after his last interrogation. Many detainees were held in this way even after an indictment had been filed against them and their detention extended until the end of the criminal proceedings.

For example, Ibrahim Shalaldeh, a father of four and a construction worker from the village of Sa'ir, who was 31 when arrested, stated:

The policeman wrote down my confession [...]. The next day, my detention was extended for another twelve days in Petah Tikva. From that day on, I wasn't interrogated at all, and sat alone in the cell. Then, my detention was extended for another eight days there. I was in Petah Tikva for about sixty-five days, and in forty to forty-five of them I wasn't interrogated. The last five days were the only time that I was with other people. I requested a meeting to ask why they were still holding me, but the interrogator refused.

The practice of holding detainees in cells for lengthy periods after their interrogation ends was also criticized in the Feuchtwanger report of the visit to the facility:

The principal problem that arose in conversations with the detainees related to the length of their detention in the facility, and to uncertainty whether they would continue to be held there or would be transferred to IPS facilities [...]. The case of one detainee

stood out in particular: his interrogation ended on 15 February 2009 (a month and a half prior to the time of the visit) and an indictment had already been filed against him, yet he had not been transferred from the facility [...]. Especially notable in this context was that, although there are a relatively small number of detainees held in the facility, the ISA officials who accompanied the visitors, including those in charge of the facility, were unable to give an immediate response to the question why the detainee was still being held, and the question had to be checked in the office. Such a prolonged problem should have been known to the officials in charge and handled by them earlier.<sup>18</sup>

The visit by the State Attorney's Office took place in March 2009, and the report on it was sent to the attorney general in June 2009. However, the current research found that, months later, detainees whose interrogation had long since ended were still being held in the facility. There was some improvement: 58 percent of the detainees who were held in the facility in the first quarter of 2009 stated they had been held a week or more after their interrogation ended, compared to 25 percent of the detainees who were held in the facility in the last quarter of 2009.

### **Court proceedings and prevention of meetings with attorneys and representatives of organizations**

As a rule, every detainee in Israel has the right to meet immediately with an attorney. However, in security-related offenses, the authorities have the power to prevent such meetings. The ISA uses this exceptional power routinely. Some of the detainees related that the interrogator told them explicitly that they were denied a meeting with an attorney, but they were not told for how long. At any rate, orders preventing meetings with attorneys are repeatedly extended. Our research shows that, in the typical case, the detainee does not receive legal advice – whether due to an order preventing meeting with a lawyer, to the detainee's family not retaining a lawyer, or because none of the volunteer organizations engaged in defending detainees sent a lawyer. During extensions of the detention period, held at court, the detainee is usually represented by counsel, most often an attorney from one of the Palestinians organizations that provides legal aid to detainees. It is also possible that detainees are represented without being aware of it, in those cases where they are prevented from meeting the attorney and the situation is not explained to them. In the cases in which detainees stated that they had been represented, the representation mostly focused on the extension of detention, and did not include a meaningful meeting with the lawyer on the detainee's rights in interrogation and detention. Many detainees did not understand the detention proceedings or their legal status. Several detainees stated that the interrogator told them in advance for how many days their detention would be extended, and that this was always correct.

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18. Feuchtwanger, see footnote 1.

'Issam Abu Hawila, a high-school student from the Balata refugee camp who was 17 when arrested, related:

[The interrogator who went by the name of] Doron said I was prevented from meeting a lawyer, but didn't say for how long [...]. I didn't understand anything in court. They only explained to me at the end that my detention had been extended. I never spoke with the judge, and I didn't complain about the isolation, or that they were holding me without interrogating me, because I didn't know I was allowed to speak in court at all. I knew to enter, stand and sit, and that they extended my detention. The only thing I said was my name.

### **Exploitation of the detainee's medical condition**

"A", from Nablus, was 19 when he was arrested. He suffers from a mental disorder, for which he regularly takes psychiatric medication. When soldiers came to arrest him, he was not at home. He later turned himself in to the army, accompanied by his father. His father gave his son's medication and a medical document indicating his condition to a person introduced to him as a "captain" (apparently, an ISA agent). The father was told that his son would be released within ten minutes or so. In fact, "A" was held for almost six months, and, at first, the authorities did not inform his family of his whereabouts. In the Petah Tikva facility, he was not given his medication and was held in a standard cell. In the interrogation room, in addition to his hands being tied to the backrest of the chair, his legs were bound to each other and to the legs of the chair. After about one day in the facility, he had an attack. He described it:

I started to shout. I thought there were monsters in the cell. During an attack, I turn into a different person. I become violent and go wild. On the outside, when I had an attack, I would hit and break things. I usually didn't remember what I'd done. In the cell, I really went wild and banged on the door and the walls. I screamed that I wanted cigarettes.

Rather than taking "A" to a clinic and having him treated by medical staff, he was taken to an interrogator, who gave him coffee and cake, and also medication. During the rest of his detention, the medication was given by the interrogator, and not by the medical staff. The interrogator also gave him cigarettes, to which the detainee was addicted. This unusual treatment, in comparison with other detainees, raises the suspicion that his condition was exploited to make him dependent on the interrogator. Later in his detention, he was transferred to the detention facility at the

Russian Compound in Jerusalem. He was held in a cell with informers who harassed him, and he had another attack.

On 2 July 2009, HaMoked filed a complaint about the incident to the Attorney General and to the attorney in charge of the ISA's Inspector of Complaints by Interrogees. After the State Attorney's Office replied that it would not deal with the complaint, HaMoked filed a new complaint with the Israel Police National Unit for the Investigation of Serious and International Crime and with the Israel Police National Unit for the Investigation of Prison Service Personnel. On 18 April 2010, HaMoked was notified that the complaint had been passed on to the Officer for Prisoner Complaints in the Ministry of Public Security. To date – October 2010 – HaMoked has not received a substantive response from any of these entities.

## Summary of findings on detainee abuse

### Breakdown of Means Used Reported by Detainees

(by percentage of detainees)

Total Sample = 121

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#### During arrest and transport to the Petah Tikva facility

Physical violence	30%
Forced to sit or lie on the floor of the vehicle	33%

#### General conditions in the Petah Tikva facility

The detainees were held in tiny cells, most windowless, large enough only for a thin mattress for each detainee and a squat toilet. The rough walls prevented them from leaning against them. Bothersome artificial light was kept on constantly. The detainees also reported:

Being held in isolation	78%
The cell being too cold or too warm	26%
Not being allowed to shower	29%
Not being provided a change of clothes	35%
Food being poor in quality and quantity	66%
Being held in the facility for a week or more after their interrogation ended	42%

#### In the interrogation room

In the interrogation room, the witness was cuffed to a chair fixed to the floor. The only breaks were to eat or go to the bathroom. The detainees also reported:

Sleep deprivation of more than 24 hours	11%
Physical violence	9%
Curses and verbal degradation	36%
Threats	56%
Curses, threats, or extortion relating to family members	36%
Threat of "military interrogation"	10%



## Part 2

### Analysis of the findings

The testimonies gathered for this report include very similar descriptions, although they were taken separately, under different circumstances, from a wide variety of detainees, and by several different attorneys and field-researchers. The similar descriptions of the ways in which the authorities of the Petah Tikva facility treated detainees may indicate a standard pattern of methods and procedures. However, the treatment may also result from an organizational culture lacking a formal structure. For example, brutality by soldiers during arrest could result from ambivalent messages within the system, such as violent normative practice in the field that is supported by silence from above.

As we will discuss, there is a high degree of conformity between the methods reported by detainees and known concepts of interrogation and interrogation manuals. This conformity reinforces the hypothesis that the treatment of detainees is structured and systematic from beginning to end. However, it does not suffice in order to understand whether the conduct of the various authorities is formally structured through procedures, orders, authorizations, and so on, or the desired behavior is nurtured through sending covert messages and turning a blind eye.

The testimonies are not uniform. The differences between witness' descriptions may result from objective differences in the authorities' treatment of them. For example, arrest of a detainee at home differs from a chance arrest at a checkpoint, and interrogation methods that are effective when applied to a person who is detained for the first time might not be effective with a person who has been detained previously. Great differences between descriptions of a certain method may indicate that use of the method is not formally structured, or that the system sends an ambivalent message to soldiers and interrogators regarding its use, leaving much room for individual interpretation.

However, differences can also stem from subjective experience. The detainees had no means to document what they were undergoing in real time. Their ability to see and hear what was taking place around them and to orient themselves in time was restricted. They were subjected to psychological pressure and were physically weakened. Difficulty in giving a complete and precise description of traumatic events is one of the well-known psychological results of torture.<sup>19</sup> The effect of various means (such as isolation, pain, and threats) can also vary greatly from person to person.

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19. See, for example, Hernán Reyes, "The Worst Scars Are in the Mind: Psychological Torture," *International Review of the Red Cross*, Vol. 89, 591 (2007), 601.

Some of the differences stem from the emphases important to each witness. For example, 40 detainees related that were compelled to sit or lie on the floor of the jeep when they were led to the facility after their arrest. Others stated that they sat on the seat of the jeep. Others stated only that they were taken in a military vehicle, and did not mention how they were held. It is, therefore, reasonable to assume that many detainees were subjected to forms of abuse not mentioned in their testimony.

### **The findings in light of the CIA's interrogation manual**

The systematic violations of human rights revealed in this report accord with the findings of previous reports and the practical experience of human rights organizations in Israel. This raises the question whether the recurrence of these violations is random or intentional. HaMoked and B'Tselem cannot, naturally, obtain an official ISA interrogation manual or first-hand information on the ISA's interrogation doctrine or on any work relations between ISA and foreign security services. However, there is worrisome similarity between ISA methods documented in this report and known interrogation doctrines that aim to psychologically destabilize the interrogee. A comparison reveals that, when viewed together, the illegitimate means used by ISA agents against detainees form a unit with an internal logic.

The internal logic is revealed by comparing the methods documented in this report with two CIA interrogation manuals, one from 1963 and the other from 1983. These manuals served, among other things, to guide interrogators in dictatorial regimes in Latin America. Interrogation methods detailed in the manuals constitute torture and were condemned by the international human rights community.

The importance of these manuals, despite their dates, is that they go beyond describing interrogation methods, and explain the desired effects on the interrogees. For instance, they detail how to instill fear and shock in a detainee, how to deprive him of sensory, social and motor stimuli, how to disorient him in time and space, and how to physically weaken him.

The interrogation methods documented in this report accord with many of these methods. For example, there is considerable similarity between the manner in which the arrest is made, as appears time and again in the testimonies, and the instructions specified in the 1983 CIA manual, aimed at inducing shock in the detainees, severing them from their routine, and generating feelings of helplessness and dependence from the start:

The manner and timing of arrest can contribute substantially to the "questioner's" purpose and should be planned to achieve surprise and maximum amount of mental discomfort. He should therefore be arrested at a moment when he least expects it and when his mental and physical resistance is at its lowest.

The ideal time at which to make an arrest is in the early hours of the morning. When arrested at this time, most subjects experience intense feelings of shock, insecurity, and psychological stress and for the most part have great difficulty adjusting to the situation.

As to the manner of the arrest. It is very important that the arresting party behave in such a manner as to impress the subject with their efficiency. The subject should be rudely awakened and immediately blindfolded and handcuffed. (Sections F-1, F-2 of the manual)

Deprivation of stimuli is fundamental to the interrogation doctrine described in both CIA manuals. The 1963 manual points out that results that can take weeks or month in ordinary detention conditions, can be achieved within days or hours when the detainee is held in a cell that is dark or with weak, constant artificial lighting, is soundproof, cannot be penetrated by odors from outside, and so on.

In the original version of the 1983 manual, the following appears (some of the quoted text was later corrected or deleted by hand):

Solitary confinement acts on most persons as a powerful stress. A person cut from external stimuli turns his awareness inward and projects his unconscious outward. The symptoms most commonly produced by solitary confinement are superstition, intense love of any other living thing, perceiving inanimate objects as alive, hallucinations, and delusions [...].

Deprivation of sensory stimuli induces stress and anxiety. The more complete the deprivation, the more rapidly and deeply the subject is affected.

The stress and anxiety become unbearable for most subjects. They have a growing need for physical and social stimuli. How much they are able to stand depends on the psychological characteristics of the individual. Now let us relate it to the "questioning" situation. As the "questioner" becomes linked in the subject's mind with human contact and meaningful activity, the anxiety lessens. The "questioner" can take advantage of this relationship by assuming a benevolent role. (Section L-10)

The 1963 manual explains the objective of stimuli deprivation:

The deprivation of stimuli induces regression by depriving the subject's mind of contact with an outer world and thus forcing it upon itself. At the same time, the calculated provision of stimuli during interrogation tends to make the regressed subject view the interrogator as a father-figure. The result, normally, is a strengthening of the subject's tendencies toward compliance. (P. 90)

Stimuli deprivation is one of the principal components of the interrogation methods documented in the present report. The detainees reported that while held in the cell, they suffered from severe deprivation of stimuli, great restriction on movement, and lack of contact with other persons. The detainees were denied means to keep themselves occupied (such as reading material), and sensory stimuli were few and monotonous. They were socially isolated, having no contact with other persons, except when removed from the cell. In the interrogation room, as well, the detainees were unable to move, even touch their own body; in practice, their only option for contact with the environment was to cooperate with the interrogator.

The deprivation of stimuli is linked to disorientation in time and space and to detachment from things that give the detainee a sense of identity, such as personal items, a watch, a daily routine, and habits of personal hygiene. These, too, were an integral part of the treatment of detainees who gave testimony for this report. The detachment from daily routine and articles to which the detainee is accustomed is one of the tools mentioned in the CIA manuals. The 1963 manual states:

A person's sense of identity depends upon a continuity in his surroundings, habits, appearance, actions, relations with others, etc. Detention permits the "questioner" to cut through these links and throw the subject back upon his own unaided internal resources. Detention should be planned to enhance the subject's feeling of being cut off from anything known and reassuring [...]. The subject should not be provided with any routine to which he can adapt [...]. Constantly disrupting patterns will cause him to become disoriented and to experience feelings of fear and helplessness.

[...]. The circumstances of detention are arranged to enhance within the subject his feelings of being cut off from the known and reassuring, and of being plunged into the strange. (Section L-9)

Another component that recurs in the detainees' testimony involves physical weakening of the detainee. This is achieved by depriving him or her of sleep, denying food or providing inedible food, generating excessive cold or heat, creating poor hygienic conditions, and severely restricting movement, in particular by prolonged binding to a chair in the interrogation room. The 1963 CIA manual points out that causing physical debility has been a customary method of interrogation for a very long time.

For centuries, interrogators have employed various methods of inducing physical weakness: prolonged constraint; prolonged exertion; extremes of heat, cold or moisture; and deprivation or drastic reduction of food or sleep. (P. 92)

However, the same manual warns that over-weakening the detainee is liable to make him apathetic, an effect the interrogator does not want. The manual recommends reliance on methods that will induce psychological regression of the detainee to a childish state – at which time it is easy to get him to cooperate.

The detainees interviewed for this report also related experiencing intense pain after soldiers or ISA agents treated them violently, during their arrest or detention at the Petah Tikva facility. During the arrest, the pain was usually caused by soldiers cuffing the detainee's hands very tightly or beating them. At the facility, the main source of pain appears to have been the prolonged sitting on the chair in the interrogation room. Legal restraints oblige interrogators not to use harsh, direct physical violence against detainees. However, according to the CIA doctrine presented in the manuals, causing interrogees indirect pain by prolonged sitting is more effective than causing similar pain by applying direct violence, such as beating. As the 1983 manual points out:

The torture situation is an external conflict, a contest between the subject and his tormentor. The pain which is being inflicted upon him from outside himself may actually intensify his will to resist. On the other hand, pain which he feels he is inflicting upon himself is more likely to sap his resistance. For example, if he is required to maintain rigid positions such as standing at attention or sitting on a stool for long periods of time, the immediate source of pain is not the "questioner" but the subject himself. (Section L-12)

The text refers, primarily, to situations in which the interrogee is technically able to get out of the painful position. In these situations, the direct reason for the pain is the interrogee himself: to justify staying in the painful position, he intensifies his own fear of severe physical punishment for disobedience. However, even when this is not precisely the circumstance, pain inflicted by the interrogee's own body is experienced differently than pain openly inflicted by the interrogator.

This report documents the systematic use of threats of violence. These threats were lent credence by the severe violence used against many of the detainees at the time of arrest, and in light of the limited acts of violence perpetrated against some of them in the interrogation room itself (such as slaps, grabbing of their face, kicks to the legs, and more). The detainees did not relate suffering intense physical pain from these acts, certainly not compared to the acute pain caused by the tight cuffing of their hands at the time of arrest or being forced to sit in the interrogation chair without moving. Apparently, the main effect of these acts was to penetrate the personal space of the interrogee, thereby not only humiliating them, but also removing accepted boundaries

so the interrogee may believe any act is possible and develop dread. This exacerbates the interrogee's fear and feeling of helplessness. As noted in the 1983 CIA manual:

The threat of coercion usually weakens or destroys resistance more effectively than coercion itself. For example, the threat to inflict pain can trigger fears more damaging than the immediate sensation of pain. In fact, most people underestimate their capacity to withstand pain.

(Section L-11)

## **Lack of law enforcement**

The State of Israel's policy regarding complaints of cruel, inhuman, and degrading treatment, and also of torture of detainees, is another indication that these practices are systematic and sanctioned by the state.

The mechanism for law enforcement regarding ISA interrogators is unique. Complaints on conduct of ISA interrogators are submitted by human rights organizations or by the interrogee's lawyer. At first, the complaint is examined by the "Inspector of Interrogees' Complaints" within the ISA. The findings of the examination are forwarded to the State Attorney's Office, and sometimes also to the Attorney General. A decision of the Attorney General, based on the said examination, is required in order to open a criminal investigation against an ISA interrogator suspected of breaking the law. Such a criminal investigation, were one to be opened, would be conducted by the Department for the Investigation of Police, in the Justice Ministry.

In practice, figures provided to B'Tselem by the Ministry of Justice show that, from 2001 to 2009, the ISA's Inspector of Interrogees' Complaints examined 645 complaints.<sup>20</sup> Not one of these examinations led to a criminal investigation of an ISA interrogator.<sup>21</sup> In some cases, disciplinary proceedings were taken against interrogators. The precise number of disciplinary proceedings was not provided, but they all occurred between 2000 and 2005.

HaMoked sent complaints to the Attorney General and to the attorney responsible for the ISA's Inspector of Interrogees' Complaints, regarding ISA interrogators' conduct toward some of the detainees who gave testimonies for this report. In August 2010, HaMoked petitioned the High Court of Justice following the lack of response to most of the complaints.

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20. Letter of 26 June 2006 from Attorney Boaz Oren; letters of 29 December 2008 and 6 May 2010 from Attorney Michal Tene.

21. As of May 2010, 41 complaints were still being examined.

Like the current report, the previous report on the ISA by HaMoked and B'Tselem, published in 2007, exposed routine use of ill-treatment as well as some incidents of torture by ISA interrogators. In its response to that report, the Ministry of Justice wrote that, "ISA interrogations are performed in accordance with the law, procedures and instructions...."<sup>22</sup> The response did not deny the severe methods revealed in the report, among them means also documented in the present report. Instead, the response noted the Ministry would not address specific interrogation methods detailed the report "due to confidentiality reasons." It is hard to understand how confidentiality reasons can prevent addressing methods that are not used or whose use by interrogators is deemed by the authorities to be a breach of law. The only conclusion is that most of the methods documented in these reports, if not all of them, are fully supported by the legal bodies in Israel's government. This conclusion is strengthened by the findings of the present report, which show that, since the previous report was published in 2007, the ISA's pattern of operation has not changed.

Regarding violence toward detainees by soldiers in the arrest stage and in the course of their transfer to detention facilities, the official position taken by the authorities is that the violence is forbidden. Complaints to the military regarding such acts of violence generally result in the opening of Military Police investigations. However, the prevalence of this violence may indicate lax law enforcement in this sphere, and that soldiers receive dual and contradictory messages regarding the manner in which they are expected to treat detainees.<sup>23</sup>

During the course of the present research, HaMoked obtained two intake forms of detainees at detention facilities in the Occupied Territories which indicate the ambivalent attitude of the authorities to violence during arrests. Both forms – one filed by a physician and the other by a Military Police commander - noted the detainees' complaint that he had been beaten on the way to detention. Despite the complaints, no Military Police investigation was opened at the time. Only after the two gave testimonies for the current report, and after HaMoked filed complaints on their matter, were investigations opened.

In 2008, the Public Committee Against Torture in Israel published a report centering on ill-treatment of Palestinian detainees by soldiers during their arrest and transport to detention facilities.<sup>24</sup> The report reveals a huge gap between the rhetoric of condemnation and the systemic conduct supporting ill-treatment. The findings of the present report confirm this conclusion.

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22. HaMoked and B'Tselem, *Absolute Prohibition* (2007).

23. Lax law enforcement is apparent in all incidents involving soldiers' violence toward Palestinians, not only regarding violence in the course of arrests. Out of 227 complaints that B'Tselem submitted to the Judge Advocate General's Office since 2000 regarding incidents of soldiers behaving violently towards Palestinians, a Military Police investigation was opened into 188, but the case was closed in 108 incidents, and indictments were filed in only six of them. One indictment was later cancelled.

24. Public Committee Against Torture in Israel, *No Defense: Soldier Violence against Palestinian Detainees* (2008).

## **The ill-treatment of detainees in context**

What is the reason for the inhuman treatment of detainees who are brought to the ISA interrogation facility in Petah Tikva? The bulk of public debate on the subject revolves around the question whether the need to gather information to thwart actions against state security requires or justifies use of exceptional interrogation methods, even those that harm human dignity. One version of this question that is often raised is the “ticking-bomb dilemma.”

The right of every individual not to be subjected to ill-treatment and physical or mental torture is one of the rare cases of a human right that is absolute, meaning that the right cannot be balanced against other rights or values and may never be suspended or restricted, not even in the most extreme circumstances of war or the fight against terrorism. This right has the highest, most binding status in international law. For this reason, the argument of interrogation needs cannot justify the acts described in this report. However, it is not clear that this argument can even explain them.

Some of the findings of the present report challenge the manner in which the “security dilemma” is constructed in public debate. The actions taken toward detainees cannot be explained solely by a need to obtain vital security information from them.

There is no doubt that the means used against the detainees are intended, among other things, to obtain information and confessions that can be used to incriminate them and other persons. This was the main demand that the interrogators made of the persons who were interviewed for this report. The interrogators demanded that they tell all they know, provide information about other persons, confess to the suspicions raised against them, and sign a statement to the police. The means described in this report are consistent with achieving these objectives by weakening the willpower of the detainee, by imposing a physical and mental price on him or her for refusing to confess, and by creating an expectation that the suffering will stop once a confession is given.

However, even if the authorities operate from the conception that the purpose of the interrogation methods is to obtain information to thwart activity against state security and to prosecute persons involved in such activity, this cannot fully explain the phenomena described in this report and in other studies.

If the only basis for the ill-treatment of detainees was a desire to obtain information, one would expect the ill-treatment to end immediately after the information was provided in full. Yet in a considerable number of cases, the ill-treatment continued after the interrogation ended: at the stage in which the suspect was no longer being questioned, and the court had been told that the file had been forwarded to the prosecution for preparation of an indictment. Detainees continued to be held in the Petah Tikva facility, sometimes for longer periods than the time they had

been held for interrogation. Often, the detainees continued to be held in isolation during this period as well, and in all the cases, they were still held in a small cell, without daylight, without being allowed to walk in the yard, with constant light hurting their eyes, being fed poor-quality food, without almost any change of clothes, and in poor sanitary conditions. It appears that the phenomenon of prolonged detention in these conditions after conclusion of interrogation is so prevalent that during the visit of the officials from the State Attorney's Office, the facility's top officials did not know about a detainee who had been held in the facility for a month and a half after his interrogation had ended.<sup>25</sup>

In addition, if the only reason for the phenomenon was the aim to thwart offenses and prosecute offenders at all costs, one would expect a correlation between the severity of the offense and the severity of the means used against the suspect. One would expect that interrogees subjected to the means described in this report would be suspected of planning and executing especially grave acts, such as terror attacks against a civilian population – the kind of acts that are usually mentioned when discussing the “ticking-bomb dilemma.” Using the same logic, one would expect that comparable means would be used in investigating all offenders posing a similar danger.

Are the means documented in the report used only against persons suspected of the most serious offenses in the statute books? Of course, we do not have data on the precise suspicions against each and every one of the detainees interviewed for the report. However, many of the detainees who were severely ill-treated by ISA agents in 2009 were interviewed after their release, or after they were sentenced to several months up to two years in prison. Had they been suspected of serious security offenses, they would certainly not have been released so quickly.

The charges against the detainees can be partially gleaned from their recollections of questions they were asked during interrogation and allegations presented to them. As far as can be determined from the testimonies, none of the detainees were suspected of possessing information regarding an act of indiscriminate killing of civilians, for which preparations were under way while they were being interrogated.<sup>26</sup> Most detainees reported that the charges against them related to political activity at universities and other places, holding membership in Palestinian organizations such as Hamas and the Popular Front for the Liberation of Palestinian, making contact, or attempting to make contact, with a foreign agent, and taking part in demonstrations and assemblies. Other charges involved aiding wanted persons and prisoners, throwing stones and petrol bombs, possessing weapons, and trading in weapons. Several detainees were suspected of conspiring to kill an army officer (the ISA

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25. Feuchtwanger, see footnote 1.

26. With one exception: E.J., a laborer from Nablus district, was interrogated for allegedly dispatching a woman with an explosive belt. This suspicion was apparently refuted. In the end, E.J. was prosecuted for an old case of weapon possession and was released five months after his arrest.

website indicates that the action did not get past the planning stage, and that the group did not even obtain the necessary funding to carry out the action).<sup>27</sup> One case involved a 16-year-old boy who was caught after stabbing and wounding a soldier. All these acts are illegal under the military legislation in the Occupied Territories, and some are violent or potentially life-threatening, directly or indirectly. However, in the hierarchy of offenses alleged against Palestinians in military courts in the Occupied Territories, these accusations are not among the most serious ones.

Are the means described in the report used against everyone who is suspected of offenses of similar severity? The Israeli authorities, primarily the Israel Police, routinely interrogate persons suspected of committing extremely serious offenses, among them serial rapists, dangerous murderers, traffickers in humans, and heads of organized crime. Many of these criminals possess information on other offenses they have committed or are being carried out at the time of the interrogation. Undoubtedly, many of them are much more experienced and sophisticated than the young Palestinian men from towns and villages in the northern West Bank, for whom the detention was their first contact with the investigation authorities, and many of whom swallowed the bait of informers.

Despite this, the interrogation methods documented in this report are not routinely used when interrogating “non-security” crimes in Israel, even when the crime is serious and the alleged offender is sophisticated. Not all prisoners in Israel are subjected to the detention conditions described in this report. The detention conditions in Israel are often shameful and appalling, but rarely, it seems, are they cruel to the extent revealed in the present report. For example, according to the Public Defenders Office, in 2008, no prisoner was without a bed. The Public Defenders Office did report narrow cells without windows in a few detention facilities. However, they were all intended for punishment or to separate detainees (an action that was taken, in part, against detainees who breached prison discipline, and at any rate, not for obtaining information).<sup>28</sup>

What is unique about the detainees interviewed for this report is not possession of vital information, and certainly nor sophistication that enables them to withstand ordinary interrogations. All the detainees are Palestinian residents of the Occupied Territories, and they were all were arrested and interrogated on suspicion of activity opposing Israel’s control of the Occupied Territories – whether in the framework of armed Palestinian groups or through political organizations. Most of the detainees were allegedly linked to Hamas or the Popular Front for the Liberation of Palestine.

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27. The article is available at <http://www.shabak.gov.il/publications/study/pages/students210709.aspx>.

28. Public Defenders Office, *Conditions of Detention and Imprisonment in Detention Facilities of the Israel Police and the Prisons Service in 2008*.

The conclusion arising from these facts is that the ill-treatment of detainees is not only a method to collect information. The ill-treatment must be examined within the context in which it occurs: the conflict between the Israeli security forces and Palestinian opposition movements using a variety of means to act against Israeli control. It is hard to avoid the impression that the cruel means described in this report is made possible by a certain racism and dehumanization of anyone who is categorically tagged as an enemy. This is the context in which torture has historically been used. This is the context in which the CIA manuals mentioned above were drafted. This is the context that enables the structuring of the ill-treatment of detainees from the moment of their arrest, through the severe violence that follows, and ending with the injurious means used in the cells and interrogation rooms – whether the structured process is implemented by means of written procedures or through covert, informal measures. Indeed, cruel isolation cells in other detention facilities in Israel are used for punishment.

HaMoked and B'Tselem propose that the treatment of Palestinian detainees be examined against the background of their national identity and their actions against the ongoing occupation, and not only in light of the kind of life-threatening danger they posed (if any). The brutality against the detainees is enabled by the dehumanization inherent in a military regime of this kind. Viewing the situation from this perspective provides a better explanation than the artificial dilemma of the “ticking bomb,” which is so prominent in the public discourse yet is not grounded in reality.

### **The findings in light of the Israeli Supreme Court’s landmark judgment on torture in ISA interrogations**

The research on which this report is based was conducted in 2009 – the tenth anniversary of the landmark opinion of Israel’s Supreme Court on the interrogation methods of the ISA (then known as the General Security Service).<sup>29</sup>

The routine handling and treatment of Palestinian “security” detainees in the 1990s were comprehensively documented by human rights organizations. This treatment included physical violence at the stage of arrest and transport to the interrogation facility, and being taken back and forth between “waiting” in the interrogation facility and being held in the interrogation room itself. The term “waiting” referred to being held outside the interrogation room bound in the shabach position, in which the detainee was forced to sit on a low chair, whose front legs were shorter than its back legs, causing the chair to tilt forward. The detainee’s hands were bound behind the backrest of the chair. His head was covered with a smelly,

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29. HCJ 5100/94, *Public Committee Against Torture in Israel v. Government of Israel*, Piskei Din 53 (4) 817 (1999).

opaque sack. Deafening music was played constantly. Inside the interrogation room, along with curses and threats, the interrogators used a number of methods to cause physical pain and distress, the most blatant being “shaking” and forcing the detainee to remain crouched in the “frog” position. Keeping the detainee in the shabach position during the “waiting” prevented the detainees from sleeping for days on end. At times, detainees were able to rest only when the interrogators left for the weekend.

In its opinion, the court examined the physical means used by the GSS in its interrogation facilities. The judgment outlined the general principles governing interrogations, and dealt specifically with a number of the means.

In general, the court held:

The power to interrogate given to the GSS investigator by law is the same interrogation power the law bestows upon the ordinary police force investigator. It appears that the restrictions that bind police investigations also bind GSS investigations. (Paragraph 32)

Regarding the ordinary laws of interrogation, the judgment states:

[...] a number of general principles are nonetheless worth noting: First, a reasonable investigation is necessarily one free of torture, free of cruel, inhuman treatment of the subject and free of any degrading handling whatsoever [...] This conclusion is in perfect accord with (various) International Law treaties – to which Israel is a signatory – which prohibit the use of torture, “cruel, inhuman treatment” and “degrading treatment” [citations omitted] These prohibitions are “absolute.” There are no exceptions to them and there is no room for balancing. (Paragraph 23)

The court holds that the necessity defense in the criminal law is available to an interrogator who commits a criminal offense in the course of an interrogation, but does not grant the interrogator authority to employ means that are forbidden under the ordinary interrogation laws.

The court ruled that “shaking” and crouching in the “frog” position are forbidden. As for cuffing, the court held that it might be necessary to preserve the interrogators’ safety or to prevent the detainee from fleeing; but cuffing itself and the manner of the cuffing must be done only in the framework of what is needed to achieve these legitimate purposes.

The cuffing associated with the “Shabach” position is unlike routine cuffing. The suspect is cuffed with his hands tied behind his back. One hand is placed inside the gap between the chair’s seat and back support, while the other is tied behind him, against the chair’s back support. This is a distorted and unnatural position. The investigators’ safety does not require it. Therefore,

there is no relevant justification for handcuffing the suspect's hands with particularly small handcuffs, if this is in fact the practice. The use of these methods is prohibited. As was noted, "Cuffing causing pain is prohibited." [Citation omitted] Moreover, there are other ways of preventing the suspect from fleeing from legal custody which do not involve causing the suspect pain and suffering. (Paragraph 26).

Regarding covering the detainee's head with a sack, the court held:

We accept that there are interrogation-related considerations concerned with preventing contact between the suspect under interrogation and other suspects and his investigators, which require means capable of preventing the said contact. The need to prevent contact may, for instance, flow from the need to safeguard the investigators' security, or that of the suspects and detainees. It can also be part of the "mind game" which pins the information possessed by the suspect, against that found in the hands of his investigators. For this purpose, the power to interrogate - in principle and according to the circumstances of each particular case - includes preventing eye contact with a given person or place. (Paragraph 28)

However, the court added:

Moreover, the statements clearly reveal that the suspect's head remains covered for several hours, throughout his wait. For these purposes, less harmful means must be employed, such as letting the suspect wait in a detention cell. Doing so will eliminate any need to cover the suspect's eyes. In the alternative, the suspect's eyes may be covered in a manner that does not cause him physical suffering. For it appears that at present, the suspect's head covering - which covers his entire head, rather than eyes alone - for a prolonged period of time, with no essential link to the goal of preventing contact between the suspects under investigation, is not part of a fair interrogation. It harms the suspect and his humanity. It degrades him. It causes him to lose sight of time and place. It suffocates him. All these things are not included in the general authority to investigate. (Paragraph 28)

The court added that the rules that allow denying particular detainees from seeing certain persons apply also to preventing the detainee from hearing certain sounds. However, the constant playing of loud music, as a means to achieve this objective, is forbidden. It causes pain and is not part of a fair and reasonable interrogation.

Regarding sleep deprivation, the court held that it can be an inevitable part of an urgent or ongoing interrogation, but that it is forbidden to use sleep deprivation as a means of interrogation, with the objective of weakening the detainee.

The interrogation of a person is likely to be lengthy, due to the suspect's failure to cooperate or due to the information's complexity or in light of the imperative need to obtain information urgently and immediately... Indeed, a person undergoing interrogation cannot sleep as does one who is not being interrogated. The suspect, subject to the investigators' questions for a prolonged period of time, is at times exhausted. This is often the inevitable result of an interrogation, or one of its side effects. This is part of the "discomfort" inherent to an interrogation. This being the case, depriving the suspect of sleep is, in our opinion, included in the general authority of the investigator...

The above described situation [in which the interrogation is carried out in consecutive intervals] is different from those in which sleep deprivation shifts from being a "side effect" inherent to the interrogation, to an end in itself. If the suspect is intentionally deprived of sleep for a prolonged period of time, for the purpose of tiring him out or "breaking" him – it shall not fall within the scope of a fair and reasonable investigation. Such means harm the rights and dignity of the suspect in a manner surpassing that which is required. (Paragraph 31)

The findings of the present report show a dramatic change in the measures employed in ISA interrogations. However, it appears that the ISA has not accepted the fundamental principles laid down in the judgment, for example, that the ISA is subject to the same rules as the police with respect to interrogations. ISA interrogations continue to be based on harmful and cruel measures – and the harm remains substantively similar to that outlawed or limited by the court.

For example, the "waiting" that was practiced prior to the judgment no longer takes place. The detainee is now held only in the interrogation room or in his cell. None of the detainees mentioned use of a sack, of loud music, or of small chairs tilting forward. But the injurious results of these methods are caused, if to a lesser extent, in other ways.<sup>30</sup> The conditions in the cells create severe sensory deprivation, even if it is less than that experienced by a detainee with a sack on his head and subjected to non-stop loud music. One reason for the prohibition on the sack was that it caused the loss of sense of time and place – the same result achieved by holding in the cells. The sensory suffering resulting from the loud music is replaced by the suffering from the constant, bothersome light bulb in the cell. The stench and suffocating sensation of the sack is replaced by the stench and suffocating sensation in the cell. The cell is not at all comparable

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30. The means are not necessarily new. The cell as described in this report was used to hold detainees in GSS interrogation facilities also prior to the court's judgment. However, it appears that, following the judgment, the GSS/ISA was compelled to use these cells – or binding in the interrogation room – in circumstances in which, in the past, the detainee had been held in his "wait."

to the restriction on movement of the detainee during, for example, the “wait,” but its size and rough walls restrict the detainee’s movement to a minimum. In effect, the detention conditions limit the detainee’s body movement as much as possible, subject to the constraint resulting from the court’s judgment, that when the detainee is not being interrogated, he must be returned to his cell.

The court’s judgment permits restricting sensory perception only in special situations – for example, when the interrogators do not want the detainee to know that a certain person is also in detention, or to hear a conversation. The state chooses to relate only to the prohibition of the court on certain methods intended to block sensory perception, and not to the court’s rationale for this prohibition. The solitary-confinement cell isolates the detainee from all human contact, and not only from conspirators with whom he is liable to coordinate testimonies.

The configuration of the cell, its color, lighting, and ventilation, the lack of natural light, forbidding detainees to keep personal items and denying them walks in the yard all contribute to severe deprivation of stimuli. These actions cannot be interpreted as accidental. As the state admits in the report of the State Attorney’s Office’s officials who visited the Petah Tikva facility, discussed above:

The security constraints and the special needs of the interrogation in the security interrogations dictate, too, some of the detention conditions and specifications of the cells – and contribute to a crowded, dark, and rather dismal appearance of the detention cells.

And that:

The cells have no windows at all (due to the special security needs).<sup>31</sup>

It is hard to imagine a security need justifying holding detainees in windowless cells, which prevents them from knowing whether it is day or night. Installing bars on the windows is a recognized and effective way to prevent escape. Windows can be constructed in a way that prevents persons from seeing a security secret. The interrogation rooms have windows, which create, apparently, no harm to security.

Also, no legitimate interrogation-related reason was found to hold detainees in prolonged sensory deprivation, total isolation, and a condition of severe lack of physical activity. The most reasonable rationale is the one appearing in the CIA manuals, namely, to cause suffering, fear, anxiety, and regression. This rationale is forbidden under the Supreme Court’s judgment.

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31. Feuchtwanger, see footnote 1.

The same is true regarding the cuffing of detainees in the interrogation room. The common manner of cuffing in the 1990s – tightly with the hands on different sides of the backrest – were not reported in the testimonies given for the purpose of this report. However, the court’s judgment is not limited to the prohibition on this particular form of cuffing. It states that painful cuffing is forbidden, that cuffing is permissible only when needed to protect the interrogator or prevent the detainee from fleeing, and that where feasible, less harmful means should be used. Cuffing the hands behind the back and fastening them to the backrest does not meet the court’s requirement. Ten years, and another judgment of the court (HCJ 5553/09, cited above), were needed for the state to issue procedures limiting the circumstances in which it is permitted to cuff a detainee, and which ensure that the chain to which the cuffs are attached is sufficiently long for the detainee to place his hands at his side. As noted previously, these new procedures were issued after the current research, and we do not know the extent to which they have been implemented. Even if the cuffing is more gentle than previously, it does not constitute the means that would cause the least harm.

As with sensory deprivation and cuffing, compliance with the court’s judgment is formalistic regarding sleep deprivation. The judgment states that, when the detainee is not being interrogated, he is to be returned to his cell. Sleep deprivation can be only a side-effect of prolonged or urgent interrogation. As a result, the “waiting” was eliminated, and it seems that physical prevent of sleep occurs in fewer cases than prior to the court’s judgment, and for shorter periods of time. On the other hand, it appears that the authorities regard any time spent in the interrogation room as “interrogation.” Many detainees reported that they were kept in the interrogation room for many hours without being asked any question, sometimes with no interrogator present. Some detainees stated that, when they fell asleep in this position, an interrogator or jailer woke them up. All this time, the detainee was fastened to the chair, unable to move, his hands cuffed behind him and to the back of the chair, with the air conditioner blowing very cold air on some occasions. Also when the detainee was not left alone, it is questionable why the interrogation lasted a day and more, or for most of the day and, after a break of a few hours, was renewed. Was this substantive questioning, or was it passing time to deprive the detainee of sleep? Was the questioning so urgent that rest breaks could not be taken, or was the prevention of rest the objective of the procedure?

Along with the prolonged “interrogations,” part of which are not interrogations at all, sleep deprivation is caused also indirectly, when the interrogee is in his cell. Some of the detainees thought that the loud noises made during the night, or the intentional disturbances made by people brought into the cell, were intended to disturb their sleep. It cannot be stated unequivocally that this is a correct assessment. However, the constant lighting, the thin mattress, and the coldness of the cells described by many of the detainees as factors affecting their ability to sleep and the quality of their sleep undoubtedly brought about a result that

the authorities should have expected. Since sleep deprivation has been a torture technique throughout history and has been documented around the world also in the past decade, and given that it was an accepted method used by the ISA in the past, it is reasonable that not only was sleep deprivation an expected result of the conditions in the cell, it was the intended result.<sup>32</sup>

If the operative instructions of the court's judgment have been implemented in this way, it is not surprising that the normative principles laid out by the judgment are not respected. The means used in the Petah Tikva facility unequivocally deviate from the ordinary interrogation law, as applied in customary police interrogations in Israel. The methods used in the Petah Tikva facility amount, at a minimum, to cruel, inhuman and degrading treatment, and in some cases constituted torture, in breach of the Supreme Court's judgment and of international law.

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32. Regarding the use of sleep deprivation as a method of torture during the past decade, see Hernán Reyes, "The worst scars are in the mind," *supra*.



## Part 3

### Legal critique

The power relationship between the detainer and detainee, captor and captive, interrogator and interrogee has been fertile ground for abominable acts since the dawn of humanity. In a democratic state, moral responsibility, local and international law and public criticism are supposed to place a protective barrier before illegitimate use of power in this charged situation. Yet racism, dehumanization of the group to which the detainee belongs, an atmosphere of emergency and fear, and public rhetoric of the “existential danger,” or “all means are legitimate” break down the protections which in normal times are meant to protect the detainee.

Elimination of torture and ill-treatment of detainees is one of the challenges facing civilized societies. Contemporary law offers a number of measures to meet this challenge. As early as 1863, the Lieber Code, drafted for the US Army during the Civil War, stated that military necessity does not justify cruelty, including torture.<sup>33</sup> Since then, the prohibition has been enshrined in various legal instruments, the most prominent being the Geneva Conventions; the International Covenant on Civil and Political Rights; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; and the Rome Statute of the International Criminal Court.

International law conceptually distinguishes between “torture” and “cruel, inhuman, and degrading” treatment. The distinction is based on the severity of the victim’s suffering, with “torture” being reserved for the acts that cause severe pain or suffering (physical or mental). The distinction is based on the desire to have the term “torture” refer to the most severe and abominable acts, while not affecting the scope of the prohibition, which applies also to acts that cause less severe suffering. In any event, the boundary between the two concepts is not clear-cut, and may also depend on the subjective response of the particular victim. There are, therefore, legal bodies that prefer not to decide in each case if the matter involves “torture” or “cruel, inhuman and degrading treatment,” especially since this distinction has no practical effect: under customary international law, torture and cruel, inhuman, and degrading treatment are prohibited absolutely, regardless of the circumstances, and cannot be justified by military need or any emergency whatsoever.<sup>34</sup>

Many mechanisms – domestic and international – have been established to translate this grave prohibition into practice. Especially notable are the tools providing universal

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33. *Instructions of the Government of Armies of the United States in the Field* (Lieber Code), 24 April 1863, Section I, article 16. See [http://www.loc.gov/rr/frd/Military\\_Law/pdf/Instructions-gov-armies.pdf](http://www.loc.gov/rr/frd/Military_Law/pdf/Instructions-gov-armies.pdf) (site visited on 26 Oct. '10).

34. For a detailed survey, see B'Tselem and HaMoked, *Absolute Prohibition*, supra.

criminal jurisdiction against persons who violation the prohibition; international tribunals to try offenders; tools that open detention facilities to spontaneous visits by external officials; institutions and officials with the responsibility to investigate complaints of violation of the prohibition; binding rules for thorough, independent investigations of victims' complaints and for payment of compensation to the victims – also while deviating from the ordinary rules of territorial jurisdiction of the civil courts.

The acts described in this report as the routine practice in interrogations at the ISA facility in Petah Tikva contravene the absolute prohibition on cruel, inhuman, and degrading treatment. There are also cases in the report that caused severe suffering that amounts to torture.

Alongside the general prohibition on torture and on cruel, inhuman, and degrading treatment, Israel's treatment of the detainees as documented in this report violates various codes regarding detention conditions. We shall discuss two of these codes.<sup>35</sup>

The Standard Minimum Rules for the Treatment of Prisoners was adopted in 1955 by the first UN congress on crime prevention and treatment of offenders.<sup>36</sup> The instrument is mentioned as a normative source in a number of judgments of Israel's Supreme Court. The conditions in the Petah Tikva facility breach several of the rules establishing the minimum standard, among them the obligation to hold prisoners in cells that have windows enabling the entry of natural light and fresh air; the obligation to enable every prisoner a daily walk; the obligation to ensure that every prisoner is provided with toilet articles necessary for health and cleanliness, a change of undergarments, and food adequate for health and strength; and the prohibition on using restraints as punishment, except in the circumstances listed in the Rules.

The Israeli Criminal Procedure (Enforcement Powers – Detentions) Law, 5756 – 1996, and the Criminal Procedure Regulations (Enforcement Powers – Detentions) (Conditions of Detention), 5757 – 1997, which were enacted pursuant to the Law, are the principal Israeli legislation governing the holding of detainees in the Petah Tikva facility and the conditions of the detention. The Regulations prescribe the conditions for holding all detainees in the state, allowing persons suspected of committing security offenses to be held in significantly inferior conditions. For example, the exception does not require the authorities to provide these detainees the means to clean their cell (but does not prescribe another way to clean the cell); allows authorities to confiscate their watches and not permit them to have books, newspapers, and writing implements in their cell; allow authorities to issue a sweeping order (unrelated to considerations of the good of the interrogation) denying the right to daily exercise in open air and to telephone calls. These exceptions affecting security detainees are themselves illegitimate. There

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35. The relevant provisions are also found in other legal instruments. Especially notable is article 76 of the Fourth Geneva Convention and article 37 of the Convention on the Rights of the Child.

36. See <http://www2.ohchr.org/english/law/treatmentprisoners.htm> (site visited on 26 Oct. '10).

is nothing inherent in security offenses that distinguishes them from other offenses and thus justifies these exceptions.

However, the Petah Tikva facility does not even provide as required the inferior conditions applying to security detainees. For example, security detainees are also entitled to a daily shower, with the proviso that the right may be denied for a period of up to three days to prevent the detainee from concealing evidence that the authorities suspect he is hiding on or in his body. In the Petah Tikva facility, the denial of the right to shower extends for much longer than three days, and is unrelated to the limited purpose allowing it as specified in the Regulations.

Under the Regulations, a security detainee is not entitled to a bed like other detainees but is entitled to a double mattress and clean blankets. The Petah Tikva facility provides the detainee with a thin (not double) mattress and smelly blankets. Another provision of the Regulations that is systematically breached is the requirement to provide the detainee with a change of clothes, a sheet, towel, and basic toilet articles. Many of the detainees who were interviewed for the purpose of this report did not receive a change of clothes, a towel, and basic hygienic articles, or received them only after their repeated complaints, and sometimes after intervention of the ICRC. None of the detainees received a sheet. The regulation requiring that detainees be provided soap and toilet paper was also violated.

As for the regulation requiring the posting, in a conspicuous spot in the facility, of a sign stating the fundamental rights of detainees and information on other matters (such as the procedure for making requests and complaints to the head of the facility): if such a sign exists in the Petah Tikva facility, the detainees never saw it, possibly because they were taken blindfolded whenever they were removed from their cells. The testimonies indeed indicate that at the beginning of the interrogation, the interrogators showed the detainees a paper specifying their rights, and even had them sign it, but the detainees were not given a copy, and were not fully aware of their rights. The detainees at times felt there was something ironic regarding the rights document: the rights delineated in it were not in fact provided. In any event, the practice of having the detainees sign the paper and not giving them a copy indicates that the action was a formality, for the record, to protect the interrogators, and not to really inform the detainees of their rights.

The testimonies mentioned threats to detainees' family members. In some cases, detainees were apparently held in the facility primarily in order to put pressure on another member of their family. Such acts utterly violate the state's declaration, made to the court, that there is an explicit prohibition "on using threats of harm to family members of detainees as a means to frighten them and pressure them in interrogative presentations."<sup>37</sup>

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37. HCJ 3533/08, *Sweiti v. Israel Security Agency* (2009) (reported in Nevo).

## Conclusions and recommendations

This report follows upon a series of publications exposing actions of Israeli authorities and Israeli decisionmakers that violate the grave and absolute prohibition on cruel, inhuman, or degrading treatment and on torture.

The succession of violations begins with the arrest, which is carried out in a manner that intensifies the anxiety and shock experienced by the detainee and often involves violence, pain, suffering, and degradation. In addition, the detainee is not permitted to take articles necessary for the detention period. The detention conditions in the Petah Tikva facility, which have the capacity to break the body and will of the detainees, cause severe deprivation of sensory, social, and motor stimuli. These include holding detainees in narrow, windowless cells with grey, rough walls and round-the-clock artificial lighting that is painful to the eyes. Sometimes, the detainee is held in solitary confinement.

In the interrogation room, detainees are forced to sit bound to a rigid chair, unable to move, for hours and even days, causing intense pain in some cases. The hygienic conditions are appalling: detainees are sometimes denied showers and are not given a change of clothes and toilet paper. At least some of the cells reek and have mold. The food is of poor quality and quantity, and detainees lose weight. During interrogation, detainees are exposed to threats, including threats against family members, and sometimes to violence. Other severe means include exposing the detainees to extreme heat and cold and depriving them of sleep.

These means and others described in this report amount, individually and certainly cumulatively, to cruel, inhuman, and degrading treatment, and sometimes even to torture. Such treatment is prohibited under international law. They also breach the Israeli Supreme Court's judgment of 1999 and relevant Israeli legislation.

HaMoked and B'Tselem propose that debate on these means be conducted in the broader context in which they are used, and not only in light of the security danger that the detainees may pose. This context is the national identity of the detainees, and their activities – both political and violent – against the ongoing occupation. The cruel treatment of detainees is facilitated by the dehumanization in Israel towards the Palestinian population. This perspective is a more appropriate framework for discussion, and offers a better explanation for the phenomenon, than the artificial “ticking bomb” dilemma, which very rarely occurs in reality, but occupies a prominent place in justifying the authorities' behavior in Israeli public discourse.

The findings of this report require action that will lead to three essential results: cessation of the violations, criminal penalties on those responsible, and compensation of the victims. In addition, it is independently important to hold a

thorough, unbiased, and transparent investigation of the alleged breaches of the law, and publish the findings in full.

The responsibility for taking these actions lies, first and foremost, with the State of Israel. Among other things, Israel is obligated to alter the procedures for the handling of detainees, and to change the physical infrastructure used for their detention. This includes closing down the existing cells. The ISA must internalize that a security interrogation does not grant the agency powers greater than those given to the police in carrying out an interrogation. The concept underlying interrogations must change from one based on causing the detainee fear, weakness, and deprivation (to one extent or another of intensity, given legal "constraints") to one based on collection of evidence and a battle of the mind with the suspect.

Every detention facility, including the one in Petah Tikva, must be opened to unbiased external inspection, and inspectors must be given free access to any part of the facility at any time and to speaking with every detainee. Every person dealing with detainees must be closely supervised, including making records of interrogations. Harm caused to detainees must be investigated, and the perpetrator severely punished. A statement that is given following infringement of fundamental rights of the detainee must be inadmissible as evidence.

Changing the current situation is not sufficient. Every person who was involved in the use of illegitimate means must be prosecuted. Carrying out an action in accordance with an order or a procedure cannot be raised as a defense when the action is cruel, inhuman, and degrading, or amounts to torture. It is also necessary to examine the responsibility of persons acting in the administrative, medical, political, and legal system who were involved in the acts, ordered their commission, supported them, or remained silent when they occurred. Also, an apparatus to fully compensate all the victims must be instituted.

## Response of the Ministry of Justice

To enable the state to relate to the report, a complete draft was sent to the Ministry of Justice, which coordinated the responses of the relevant governmental bodies. The time and effort invested by the various Israeli authorities in preparing a detailed and serious response to this report is appreciated. However, three comments regarding the response are warranted.

1. *Conditions of detention and interrogation methods* Although most of the report discusses the interrogation means employed by the ISA, the response barely touched on this subject. The short section dealing with the ISA does not relate specifically to any of the claims regarding the conditions of the detention or to any specific interrogation method. The response does not even offer a general denial of the descriptions provided in the report. The High Court petitions mentioned in section 15 of the response did not deal with any of the interrogation methods discussed in the report, except for the issue of binding. The contention that the petition on this issue was rejected "outright" is incorrect, since the filing of the petition led to commitments made by the state and to changes regarding the practice.
2. *Violence by military forces* In its response, the Ministry of Justice provides data that indicate many Military Police investigations were opened into complaints of such violence. However, the response fails to mention the very small number of indictments that resulted from these investigations, or that a clear majority of the investigations were closed without any measures being taken against members of the security forces.
3. *Notice of detention to the detainee's family* The Ministry of Justice's response regarding the notice provided to the detainee's family regarding the detention is misleading, and even outrageous (sections 5-6): In light of a years-long legal battle, the IDF agreed to provide information on detainees' whereabouts to HaMoked. Since the army did not routinely fulfill its legal obligation and inform the families, HaMoked was forced to fill this vacuum. In its response, the state related only to the obligation to provide information to HaMoked, and totally ignored its primary obligation to inform the families themselves. Also, the state's response claims that the temporary detention facilities in the West Bank notify the detainee's family by phone, within twenty-four hours, that their relative has been detained. In all the cases handled by HaMoked, among them the cases included in this report, the families received no such phone calls nor any official notice whatsoever. For this reason, the families turned to HaMoked to receive information on the whereabouts of their relative.



**State of Israel  
Ministry of Justice**

**The Department for International Agreements and International Litigation**

Date: 19 Heshvan 5770

27 October 2010

Ref: 4257

Ms. Noam Preiss  
B'Tselem – The Israeli Information Center for  
Human Rights in the Occupied Territories  
8 HaTa'asiya Street (Fourth Floor)  
PO Box 53132  
Jerusalem 91531

Dear Madam,

**Re: Our Response to the Draft B'Tselem's Report "Kept in the Dark:  
Treatment of Palestinian Detainees in the Petach-Tikva Interrogation  
Facility of the Israel Security Agency"**

The following is our response to the claims made in the above-referenced draft report.

1. I shall begin by pointing out that, to our way of thinking, the draft report is flawed in its broad assumptions, some of them extremely grave, which are based on nothing more than general, unfounded statements, presented without any detailed data that can be checked to support/refute them, with all that such lack of particulars implies.

**Claims Regarding Visits to Detention Facilities**

2. Contrary to the claims made in the draft report, visits made by representatives of the Ministry of Justice to detention facilities of the Israel Security Agency (ISA) are not rare by any means. In fact, an examination of the visits shows that the average number of visits to ISA facilities exceeds that of visits to facilities of the Israel Prisons Service (IPS). The report that is the subject of footnote number 1

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רח' השלושה 2, ת.ד. 9299 תל אביב 61092 טל' 6899801 פקס 6899792  
P.O. Box 9299 Tel-Aviv 61092 Tel: 972-3-6899801 Fax: 972-3-6899792  
E-Mail: international@justice.gov.il

### **The Department for International Agreements and International Litigation**

of the draft report, which states that only a few visits were made, was written in June 2009, more than one year ago, whereas most of the visits were made after that date.

3. The objective of the aforesaid visit, as is the case with every official visit, was to examine the physical conditions in the detention site, and to conduct a basic inquiry with respect to compliance with the rights of the detainees during their detention. This examination was carried out fully, as described in a summary report of the visit, which was brought the attention of your organization.
4. It should also be pointed out that, in the framework of the official visit that was made, the visitors explicitly asked the detainees about the conditions in which they were being held. The detainees did not make any claim of the kind delineated in the draft report, even though they did not refrain from complaining about other matters that bothered them, as was outlined in the report that is the subject of the aforesaid footnote.

### **Claims Regarding the Detaining of Persons**

5. It should be emphasized that the IDF vigilantly carries out its obligation regarding the giving of notice of detention, as also set forth in Supreme Court case law.<sup>1</sup> It does this through the Military Police's Incarceration Control Center. In addition, where the detainees are held in brigade detention facilities in Judea and Samaria, which are administered by the IDF, in accordance with the directives of the Military Police in Central Command, the facility's officials update the detainee's family by telephone immediately upon intake of the detainee, and no later than twenty-four hours from the time of the arrest, except in extraordinary cases as set forth in the defense legislation.
6. An important indication of the proper manner in which the IDF acts in this context is the extremely small number of petitions involving "locating detainees" (*habeas corpus*) that have been filed to the Supreme Court in recent years.

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<sup>1</sup> H.C.J. 6757/95, *Hirbawi v. Commander of IDF Forces in Judea and Samaria*, Tak-El 1996 (1) 103.

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7. It should also be mentioned that, regarding the claim on the timing of the arrests, as was brought before you in the past, the manner of carrying out arrests in Judea and Samaria, including the hours of the day they are carried out and the means used in effecting the arrest, are a function of the special characteristics of the operational actions in the region and the understandable need to reduce the risk to the forces and to diminish the friction between them and the population; as well as the need to prevent the interrogation from failing and the suspects from fleeing. These considerations also affect the draft report's allegations regarding the detainees not being allowed to part with their family members, to change clothes, or to pack personal items to take with them.
8. As for the severe allegations made in the draft report on the use of force at the time of arrest by the arresting forces, our position is that a distinction must be made between the use of reasonable, proportionate force by the arresting forces due to resistance by the suspect or to an attempt to flee, or, in extreme cases in which the soldiers' lives and bodies are under threat (for example, the arresting forces often have intelligence information indicating that weapons and/or other suspects might be located in the building in which they are operating, requiring the soldiers to search the building), on the one hand; and circumstances in which the arresting forces, or a particular soldier among them, use unreasonable force, or where the force is not necessary, on the other hand. Regarding the latter kind of cases, we want to state clearly, for the avoidance of doubt, and unequivocally, that the IDF strictly forbids acts of this kind by its soldiers and commanders; accordingly, it views deviation from the prohibition with great severity and treats any such deviation appropriately.
9. We also reject outright the serious assertions made in the draft report regarding the "contradictory messages" on this point. For example, the military courts and district and appellate courts have sharply condemned the use of excessive or unnecessary force against detainees, even when they were done at the peak of intensive operational activity.<sup>2</sup>

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<sup>2</sup> Appeal 153/03, *Lt. Col. Geva Sagui v. Chief Military Prosecutor*, Tak-Tzav 2004 (3) 27; Appeal 146/03, *Chief Military Prosecutor v. Cpl. Ro'i Rozner and Cpl. Lior Lieberman*, Tak-Tzav 2003 (3) 130; Appeal 66/05, *Sgt. N. R. v. Chief Military Prosecutor*, Tak-Tzav 2005 (3) 308.

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10. We also completely reject the claim made in the draft report regarding the helplessness of the Military Advocate General's Office in enforcing the prohibition on the use of violence against Palestinian detainees. The Military Advocate General's Office, in recent years has repeatedly reiterated its uncompromising obligation on this issue. For example, as the report of the Public Committee Against Torture also noted, of the forty complaints that the Public Committee Against Torture filed against the Military Advocate General's Office alleging ill-treatment of detainees, twenty-one of the complaints led to an investigation by the Military Police Investigation Unit (MPIU). In addition, during the period December 2000 to June 2007, the MPIU carried out 427 investigations into offenses of violence against Palestinians. From 1 January 2005 to 1 July 2007, seventy-seven MPIU investigations were opened from among the 138 complaints filed with the Military Advocate General's Office alleging harm to Palestinian detainees during this period. In 2008, 211 MPIU investigations into allegations of violence against Palestinians were opened; in 2009, the MPIU opened 140 investigations of this kind.
  
11. We want to respond, in brief, also to other serious contentions made in the draft report that involve transportation of the detainees to the various facilities. *As for the claim that dogs are kept near the detainees in the vehicle*, there are, indeed, times in which the vehicle include soldiers from the arresting force, as well as soldiers from the Canine Unit and their dogs, but the dogs are muzzled and held by their handlers throughout the trip. Consequently, there is no physical contact between the detainees and the dogs. *As for the claim regarding the use of plastic cuffs*, it should first be made clear that mention of the petition filed with the High Court of Justice is inappropriate: that proceeding dealt with the binding of detainees under ISA interrogations; neither the IDF nor any of its commanders were named as respondents in the petition. Furthermore, it goes without saying that there is a significant difference between binding during interrogation and binding when making an arrest and transporting the person to the place of incarceration, a difference that is reflected in the nature of the need, in the risks involved, and in the means existing in each of the situations. Also, it should be emphasized that recent comprehensive staff work by Central Command, in cooperation with medical and operational personnel, found that, as

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a rule, iron cuffs are not preferable to plastic cuffs. However, detailed procedures were drawn up regarding the manner in which the cuffing is to be done. Also, the obligation to carefully safeguard the dignity and health of the detainee was made clearer, and the commander of the force was instructed to ensure, from time to time, that the cuffs are not too tight. *Regarding the claim concerning the intermediate stations*, procedures established by Central Command state that detainees are to be brought without delay to one of the regularized detention facilities - brigade detention facilities, IPS facilities, or police stations, and that holding a detainee in a substitute location is permissible only when required by concrete operational needs. It should be emphasized that, in that case as well, the procedures state that detainees are to be held in reasonable conditions, especially with regard to respect for their dignity. Naturally, exceptions to these procedures might arise, and where such a case arises, it is handled. However, as stated, it is obvious that such an inquiry requires concrete and detailed information, and not the general and non-binding claims that are presented in the draft report.

### **Claims regarding ISA interrogations**

12. Regarding ISA interrogations, I wish to make it clear that they are carried out according to law, with the objective of thwarting and preventing unlawful actions aimed at harming state security, the state's democratic regime, or its institutions.
13. ISA interrogations are carried out under the supervision of independent legal officials and bodies – the Attorney General, the State Attorney's Office, the Ministry of Justice, and the various court systems.
14. Interrogatees are not prevented from turning to one of the aforesaid bodies and laying out their claims as to the manner in which their interrogations are conducted. It should be underscored that every interrogatee has the right to do so not only before official visitors' teams that visit the facility, but on many other occasions during interrogation – at hearings to extend detention, before high appellate courts, and so forth. Claims may also be made at the end of

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interrogation to the official in charge of examining complaints of interrogatees, in the State Attorney's Office.

15. We can only express our regret that the draft report repeats unfounded claims that have been rejected by the State's highest courts. For example, two petitions filed in recent years against ISA interrogations, petitions that alleged use of violence in interrogations and binding of detainees, were summarily rejected by justices of the Supreme Court.

Sincerely,

Hila Tene-Gilad, Adv.

Director (Human Rights and  
Liaison with International  
Organizations)



**המוקד להגנת הפרט**  
**HAMOKED** Center for the Defence of the Individual  
המוקד - مركز الدفاع عن الفرد

מיסודה של די"ר לוטה זלצברגר - עמותה רשומה

Founded by Dr. Lotte Salzberger - Registered Association

اسستة د.لوطه زلتسبرغ - مكتب الشكاوي - جمعية مسجلة

רחוב אבו עוביידה 4, ירושלים 97200

ט.ל. 02-6283555, פק.ס. 02-6276317

شارع ابو عبيدة 4, القدس 97200

תלפון 02-6283555, פאקס. 02-6276317

4 Abu Obeidah St. Jerusalem 97200

Tel: 972-2-6283555, Fax: 972-2-6276317

e-mail: [mail@hamoked.org.il](mailto:mail@hamoked.org.il)

[www.hamoked.org.il](http://www.hamoked.org.il)

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# בצלם

בצלם - מרכז המידע הישראלי לזכויות האדם בשטחים

"בטיסלם" - مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة

B'TSELEM - The Israeli Information Center for  
Human Rights in the Occupied Territories

רח' התעשייה 8 (קומה ד'), ירושלים 93420

טלפון: 02-6735599, פק.ס: 02-6749111

شارع هتسسيا 8 (الطابق الرابع), تلبوت,

القدسهااتف: 02-6735599, فاكس: 02-6749111

8 HaTa'asiya St. (4th Floor), Jerusalem, Israel

Tel: 972-2-6735599, Fax: 972-2-6749111

[mail@btselem.org](mailto:mail@btselem.org)

[www.btselem.org](http://www.btselem.org)