



**THE "NEW PROCEDURE"
IN GSS INTERROGATION:
THE CASE OF
'ABD A-NASSER 'UBEID**

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מרכז המידע הישראלי לזכויות האדם בשטחים

רחוב עמק רפאים 43 (קומה שניה), ירושלים 93141

טלפון 617274, 02/617271, פקס 02/610756

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

43 Emek Refaim St. (Second Floor), Jerusalem

Tel. 02/617271, 617274, Fax. 02/610756

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Research:

Bassem 'Eid, Yuval Ginbar

Written by:

Yuval Ginbar

Translation:

Ralph Mandel

Introduction

According to the Israeli-PLO Declaration of Principles, Israel "will continue to carry the responsibility for defending against external threats, as well as the responsibility for overall security of Israelis" in the territories (Article 8). If so, Israeli security forces will probably continue to arrest and interrogate Palestinians from the territories.

The joint declaration makes no reference to the methods of interrogation customarily employed in the territories, nor does it introduce any revisions in this regard.

On April 25, 1992, in an affidavit to the High Court of Justice, the head of the General Security Service (GSS; Hebrew: "Shin Bet" or "shabak") described the changes that had been introduced in the procedure for interrogating security detainees.¹ The details of the "new procedure" were contained in a second, privileged affidavit.

The "new procedure" is meant to revise the interrogation methods laid down by a state commission of inquiry headed by Justice

Moshe Landau in 1987, which permitted, among other methods, the use of "psychological pressure" and "a moderate measure of physical pressure."

The purposes of this report are:

1. To examine the degree to which the "new procedure," as it is set forth in the open section of the affidavit by the head of the GSS, truly represents a substantial revision in interrogation methods.
2. To examine the degree to which the "new procedure" has brought about a genuine change in interrogation methods. This is achieved primarily through the testimony of 'Abd a-Nasser 'Ali 'Issa 'Ubeid, age 29, a resident of the village of 'Issawiya in East Jerusalem. 'Ubeid was arrested in his home on August 30, 1993 and held in the GSS wing of the police detention facility in the Russian Compound in Jerusalem until his release on bail on September 15. The report also includes extracts from other testimonies.

1. See below, p. 5 ff.

Part One:

The "New Procedure" in GSS Interrogations of Palestinians

A. Background: The Landau Commission Report Recommendations – Theory and Practice

In 1987 a state commission of inquiry headed by Justice Moshe Landau recommended procedures to be followed in interrogations of security detainees. These were adopted by the government. The procedures, which were detailed in a secret appendix to the report, permitted, among other methods, the use of "psychological pressure" and "a moderate measure of physical pressure."

B'Tselem does not have the secret appendix of the Landau Commission Report and therefore we do not know what the commission permitted or prohibited.

In March 1991 **B'Tselem** published a report entitled *The Interrogation of Palestinians During the Intifada: Ill-treatment, "Moderate Physical Pressure" or Torture?* which found that in practice ten main methods of interrogation were employed:

1. Insults and abuse.
2. Threats to harm the detainee or his family.
3. Sleep and food deprivation.
4. Covering the detainee's head with a sack for hours and even days.
5. Prolonged confinement in a small solitary cell with the detainee tied up in a painful position.
6. Tying up the detainee for long periods in painful positions.

7. Use of collaborators to extract information or a confession, with violence or the threat of violence.
8. Forced physical exercise.
9. Confinement in extreme conditions of heat, cold, or filth.
10. Severe beating on all parts of the body with fists, sticks, and other instruments.

Among the report's conclusions was that: "By any formal criteria these [interrogation] methods... fall under the definition of 'torture.'"²

B. The "New Procedure"

In June 1991 a petition was filed to the High Court of Justice by Attorney Avigdor Feldman, acting on behalf of the Public Committee Against Torture in Israel and Mr. Murad 'Adnan Salahat, requesting that the GSS be prohibited from using psychological and physical pressure as specified in the Landau Commission Report.³ According to the petition, these methods conflict with Israeli law and international conventions to which Israel is a signatory. The petition also appealed for the public release of the secret appendix to the Landau Commission Report. On April 25, 1993, within the framework of the hearings on the petition, the head of the GSS submitted an affidavit describing changes which had been introduced in the interrogation procedure. The details of the procedure appeared in a second, privileged affidavit.

2. See p. 107 of the report.

3. HCJ 2581/91

In the open part of his affidavit, the head of the GSS informed the High Court that a "new procedure" had been introduced on April 22, 1993 in accordance with the recommendations of a ministerial committee created to consider the subject (pars. 12, 13 of the affidavit).

Underlying the "new procedure" are the principles "already set forth by the Landau Commission" (par. 15). The affidavit spells out the main emphases of the "new procedure":

1. **"Clarifications" and "changes":** "The ministerial committee also included additional definitions and clarifications regarding the use of means of pressure which interrogators had been permitted to use previously, and introduced certain additional changes in the procedure" (Par. 17).

2. **"Limitations":** The "new procedure" notes "limitations" which "refer, among other matters, to the various aspects of the interrogation," i.e. the type of interrogation in which a particular method is permitted, the stages at which it is permitted, and the echelon at which the use of a particular method must be approved; "limitations which have been determined regarding the use of the various means of pressure"; "the duty to take into account the detainee's state of health"; and "the absolute necessity of implementing those measures permitted" (par. 15).

3. **Use of means solely to extract "vital information":** "The procedure emphasizes," notes the head of the GSS, "that no permission whatsoever is to be used other than for the purpose," i.e., "to induce detainees to supply vital information which there is reason to believe they are concealing" (par. 16).

4. **Prohibitions:** "The procedure also makes it explicitly clear that there is a prohibition on starving a detainee, depriving a detainee of drink, preventing a detainee from going to the lavatory, and abandoning him to heat or cold" (par. 16).

5. **"Use of an exceptional means"** by stages, according to the GSS chief:

"The procedure states that if it is necessary to make use of an exceptional measure specified in the procedure, the interrogator must act by gradations. That is, he must first try, as far as possible, to use means of psychological pressure to achieve the goal. Only if these do not achieve the goal may the interrogator resort to the additional means of pressure which the procedure permits" (par. 17).

C. Criticisms

Even according to the head of the GSS himself, the new procedure continues to incorporate, "within the limits of the law," the "special interrogation procedures which were recommended by the Landau Commission" (par. 7).

The changes introduced by the "new procedure" are minor and marginal; the procedure still effectively permits humiliation and torture – psychological and physical – of Palestinian detainees:

A. *Duration of Detention and Severity of Means: At GSS Discretion*

The principal changes in the "new procedure" are that it makes the use of certain methods of interrogation conditional on the existence of particular suspicions, and requires the approval at higher echelons of the GSS. Nevertheless, it is GSS personnel who determine the essence of the suspicion and also approve the use of the various methods.

Through a police officer in charge of investigation who serves as the official cover before whom the confession is signed, the GSS personnel, without intervention, without supervision, and indeed without the

knowledge of any external authority, determine that the suspicions are sufficiently grave to warrant holding the detainee in total isolation from the outside world for fourteen days and to subject him to the harsh interrogation methods approved by the Landau Commission.

GSS members make these decisions based on suspicion alone, and are not obligated to substantiate them, unlike, for example, an ordinary request for extension of detention. There is thus no possibility, even after the fact, of accusing the interrogators of unnecessarily extending the period of

Incommunicado Detention for 14 Days

Interrogators of Palestinian detainees have the authority to hold a detainee in absolute isolation from the outside world for up to eighteen days (with the exception of a visit by a Red Cross representative on day 14) until he is brought before a judge for a remand hearing. The detainee may be prevented from meeting with a lawyer for fifteen days, subject to extension.*

On September 10, 1992, the Ministerial Committee on Security decided to change the procedures for detainees who are minors and for those suspected of disturbing the public order: They must now be brought before a judge after eight days in detention. For those suspected of committing serious offenses, the procedure described above remains intact.**

This procedure is unparalleled in any democratic state. In Israel a detainee is brought before a judge after 48 hours.

* On this subject, see **B'Tselem**, *Interrogation of Palestinians*, pp. 97-100 .

** The committee's decision was affirmed in an amendment to the Order Regarding Security Provisions (Amendment no. 70, March 24, 1993.)

Democratic states have long since laid down binding procedures which limit the ability of the arresting authority to act with a detainee as it wishes. Notably, these include bringing the detainee before a judge as soon as possible and permitting him to meet with a lawyer soon after his arrest. The purpose of these regulations is to ensure that additional authorities and persons independent of the arresting authority will oversee the situation of the detainee.

The "new procedure" gives the GSS exclusive power to determine the severity of the means which it may employ, as well as deciding when outside elements may supervise its actions.

detention in isolation or of using severe methods not in accordance with the regulations.

Until very recently, complaints against GSS interrogators were investigated within the GSS itself, notwithstanding that a decision to transfer such inquiries to the Ministry of Justice had already been taken by the previous government.⁴

B. Permission to Use Interrogation Methods which Constitute Torture

B'Tselem does not have the secret affidavit of the "new procedure" or the secret appendix to the Landau Commission Report.

4. On September 6, 1993 the newspaper **Hadashot** reported that the department for the investigation of policemen in the State Attorney's office "will soon" begin dealing with complaints against GSS interrogators.

On August 12, 1993 the Supreme Court – justices Shlomo Levin, Menachem Eilon, and Dov Levin sitting – rejected the petition of the Public Committee Against Torture in Israel. The court ruled that the status of the guidelines given to GSS interrogators is that of internal directives: "clearly they cannot be regarded as equal to law... and they must be abolished if they contravene the law." The court did not express an opinion regarding the legality of the guidelines, which can be examined only in connection with a specific case. As Justice Shlomo Levin wrote: "I do not think we should address the issues that are included in the details of the [Landau] commission's recommendations, or the details that are included in the guidelines. A specific examination of that kind can be undertaken only against the background of a concrete case."

The court also ruled that the supervision of GSS activities by the government, the Knesset, and the State Comptroller, and the examination of complaints against GSS interrogators by an independent authority in the Ministry of Justice "constitutes an additional guarantee that in particular cases, in which there will be place to determine, *prima facie*, that the conduct of GSS interrogators was unbecoming, criminal charges will be filed against them, which will allow normative criteria to be set in the course of dealing with a concrete instance, even in difficult cases."

Nevertheless, according to the testimonies cited here, under the rubric of the "new procedure," GSS interrogators continue to make use of nine of the ten methods to which they resorted previously.⁵ The same picture emerges from dozens of testimonies and affidavits which have accumulated in the offices of lawyers and other human-rights organizations since the "new procedure" came into effect.⁶

Under the "new procedure," as under the old, interrogators routinely tie up detainees for prolonged periods in painful positions, deprive them of sleep, food, showers, and clean clothing, and abuse, threaten, and beat them.

The absence of any improvement stems in large measure from the fact that underlying the "new procedure" are, as noted, the principles "already set forth by the Landau Commission" (par. 15).

C. Permission to Use "Moderate" Violence⁷

The cardinal flaw of the "new procedure," like its predecessor, lies in the very fact that it permits the use of psychological and physical violence against detainees, even if it qualifies this by prohibiting – as did the Landau Commission – their use "to humiliate, abuse, or torture detainees under interrogation" (par. 16; cf. par. 3.16 of the Landau Commission Report).

It was the danger of creating this particular opening that underlay the unequivocal formulation in the Israeli Penal Code prohibiting a public servant from using violence of any kind, or even from threatening its use, as a means of extracting information or a confession.

Section 277 of the Penal Code states:

A public servant who does one of the

5. See the list on p. 5. The only exception we found was with regard to forced physical exercise.

6. See, for example, Amnesty International, "Doctors and Interrogation Practices: The Case of Nader Qumsiyeh," August 1993.

7. For a detailed analysis of the problems entailed in the license to use violence from the point of view of Israeli law and international law, see B'Tselem, *Interrogation of Palestinians*, pp. 9-21.

following is liable to imprisonment for three years:

1. uses or directs the use of force or violence against a person for the purpose of extorting from him, or from anyone in whom he has an interest, a confession of an offense or information relating to an offense;
2. threatens any person, or directs that person to be threatened with injury to his person or property, or to the person or property of anyone in whom he has an interest, for the purpose of extorting from him a confession of an offense or any information relating to an offense.

The use of expressions such as "in direct proportion to the nature and scope of the danger" (affidavit, par. 16), or "solely to induce those under interrogation to provide vital information" (ibid.) to justify the use of violence against those under interrogation flagrantly contradicts the position of

international law, which bars torture absolutely, even under the most extreme emergency situations.

Article 2 of the 1984 "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," ratified by Israel in 1991, states:

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

The continued permission to use violent methods under the "new procedure" is especially serious in light of the long experience of its formulators which demonstrates that license to use violence, however "moderate," unavoidably opens the floodgates to severe violence. The only way to prevent this is to prohibit, unequivocally, the use of violence of any sort during interrogations.

Part Two:

The Testimony of 'Abd a-Nasser 'All 'Issa 'Ubeid

Following is the testimony of 'Abd a-Nasser 'Ubeid, taken by Bassem 'Eid of B'Tselem. Most of the testimony was taken on September 17, 1993, at 'Issawiya. At our request, 'Ubeid clarified various points during the preparation of this report, and his clarifications have been incorporated into the testimony.

"On August 30, 1993 at 1 a.m. Monday morning policemen and GSS men arrived at my house. They knocked on the door of the house. I asked who it was and they said they were from the police. I opened the door and three masked policemen (wearing blue wool headcoverings with slits for the eyes) entered the house and asked me: What is your name? I said my name is 'Abd a-Nasser and then they told me that I was under arrest. I got dressed and they took me out of the house, tied my hands behind my back, and blindfolded me.

"The policemen put me into a vehicle and took me to the Russian Compound. There they took me out of the vehicle and put me into hut no. 4 (I saw the place when I was taken from the building without a blindfold). In the hut a policeman informed me that I was under arrest for 48 hours and took me to the detention facility. I was taken to a doctor who asked me whether I had any illnesses or pains. I told him I didn't. The doctor did not examine me at all but I saw that he wrote something in the file. They put me into a room where they covered my head with a sack and then they took me out of the room, through a corridor, and into another room, where they removed the sack but left my hands tied behind me.

"In the room was an interrogator who identified himself as Abu Amin.⁸ He gave me a cigarette and said that I had not been

brought here out of the blue but after someone from the village of 'Issawiya, named Ahmad, who was arrested a week before me, had said I was from the Hamas movement. Abu Amin told me that Ahmad had confessed that he had recruited me to the movement and that he and I together burned a cafe in the village in 1990 because there was gambling there. Abu Amin kept saying that the matter was closed and that they knew everything. I denied any connection to those things. The interrogation continued until 4 a.m. on Monday. There is a large clock in the room and I saw the exact time.

"Later in the morning another interrogator arrived, who identified himself as Benny. They both began interrogating me about those things. Afterward Benny took me to another room and continued to interrogate me. He placed me against the wall in a half-standing position [i.e., with knees bent] and left. He returned every quarter of an hour. That went on until 9 p.m. on Monday.

"Every so often Benny would grab me by the shirt collar and bang my back against the wall. Every time he did this he banged my back about thirty times.

"During the interrogation Captain Benny brought a piece of white adhesive tape, stuck it to my chest, and wrote on it, in Arabic, the word "collaborator" ("amil") and the number 745421088/3. He began

8. Palestinian detainees in the Russian Compound are interrogated either by the GSS or by the Minorities Unit of the Israel Police. 'Ubeid, according to his testimony, was interrogated by the GSS. This was confirmed in a letter by Inspector Yoni Tsioni of the Investigations Branch at the National Headquarters of the Israel Police. In reply to our letter he wrote, on November 2, 1993, that 'Ubeid "was arrested on August 30, 1993, on suspicion of having committed serious offenses and was released on September 15, 1993 by the GSS."

teaching me the number. It took me about three hours to learn the number. Then he photographed me and said: I will circulate pictures of you in the detention facility and in your village, and masked individuals will throw Molotov cocktails at your house and burn your three little girls, and in the detention facility you will be interrogated and tortured.

"All the time Benny asked me to repeat the number out loud and told me that he was going to another room and wanted to hear me from there. The whole time I was standing with my hands tied behind me. This went on until Benny came at night and took me to another room, where I was allowed to sleep. I did not eat or drink the whole of Monday.

Determining Medical Fitness for Incarceration in Unknown Conditions

Before a physician can confirm the medical fitness of a person to be present in a certain environment or under certain conditions, he must naturally be acquainted with the surroundings and conditions in question.

This is true for the noise level in a factory, the physical stamina required in a particular army unit, and also for the conditions of incarceration.

The detention facilities of the army and the police, as well as those of the Israeli Prison Service, have physicians authorized to determine a detainee's fitness to endure incarceration.

On December 1, 1992, Knesset member Naomi Hazan submitted a parliamentary interpellation to the defense minister concerning the authority of physicians in detention facilities in which the GSS maintains interrogation wings (parliamentary interpellation, no. 0204).

Among her questions:

Is he [the physician] briefed on the secret section of the Landau Commission Report of 1987, which defines the permissible and the prohibited for interrogators?

In his reply, Minister of Environmental Affairs Yossi Sarid, responding on behalf of the defense minister, stated:

The physician is not briefed on the contents of the secret report. The examination is carried out according to accepted medical criteria and does not take into consideration the needs of the interrogation. In principle the physician has the authority to limit the duration or conditions of the interrogation.

The situation, then, is that the physician approves the detainee's admittance to a facility containing a GSS interrogation wing in which psychological and physical pressures are used, without knowing of what these pressures consist. In other words, he confirms the fitness of a person to be placed in conditions of which he has no knowledge.

The physician is given authority "in principle" to limit the conditions of interrogation – conditions with which he is, as stated, unacquainted.

The "Tokyo Declaration," adopted by the World Medical Association in 1975, forbids physicians, *inter alia*, to "countenance... torture or other forms of cruel, inhuman or degrading treatment... ."

* For a fuller treatment of this topic, see B'Tselem, "The Death of Mustafa Barakat in the Interrogation Wing of the Tulkarm Prison," *Case Study 1: September 1992*, pp. 14-15.

"On Tuesday, between 7 and 8 a.m., they put me into a cell of collaborators. There were five detainees there who presented themselves as activists from Fatah and the Popular Front and one who said he belonged to Hamas. I sat on the bed. Two of them began to curse. I knew they were collaborators because I had heard from

had asked for me to be in their cell. One of them, who introduced himself as Abu M., came up to me and said: Say nothing. Soon the man in charge of the cell, Abu 'I., will arrive, and he will transmit your name to the responsible person in the prison [i.e., responsible on behalf of the Palestinian organizations].

Use of Collaborators in Interrogation: A Reservist's Testimony

GSS and IDF interrogators routinely make use of Palestinian collaborators to extract information from "security" suspects.

D.B. (full name withheld by **B'Tselem**) serves his reserve duty with the Military Police. In the spring of 1993 he served in the interrogation wing of the military prison at Far'ah, in the northern sector of the West Bank.

This interrogation wing is administered by the Military Police and is under its responsibility, with the professional guidance of a GSS official.

In his testimony, given to Yuval Ginbar from **B'Tselem** on August 8, 1993, D.B. explained that his principal task was to escort detainees to and from the interrogation wing. He was not permitted to enter the interrogation rooms. The following section of his testimony refers to the role of collaborators in interrogations:

It bothers me that they do things that we don't do.

As far as I know, the collaborators were criminals [as opposed to "security" detainees-Y.G.]. They were placed in a separate room, in the interrogation wing, with air conditioning, video and television. They received food also from home.

As a rule, they would empty a small cell, put in the collaborators, bring in the detainee – and he would spill whatever he spilled.

What riled me is that one of the collaborators, who must have been "burned," would sometimes go over and beat those detainees waiting for interrogation. Once in a while soldiers also beat them (if, for example, a soldier came back from home feeling down, he might tell a detainee to straighten up, accompanied by a kick) – but that was rare.

I confronted the collaborator about this and the [military] police stood up for him. I understood that the issue was also raised with the interrogators.

people who were arrested in the past that there are collaborators in the detention facility.

"Afterward I was taken to another room, also of collaborators, where there were about ten people. I went into the shower. One of the detainees gave me slippers and pajamas. They made me coffee, gave me cigarettes, and told me that we were all Hamas and that because I was devout they

"When Abu 'I. arrived I sat with him. He was about 35. He asked me why I had been arrested, what I was accused of, and what I had confessed. I told him that someone had told things about me and that I had denied them. Abu 'I. wrote it all down. Afterward he asked me what I had concealed from the interrogator and I said I had nothing to hide. "Abu 'I. left me, and the rest of the detainees told me that I should talk to him

and give him information so that he could help me. Then the police took me to court, where my detention was extended for ten days.⁹ That was on August 31, between 11 a.m. and 12 noon.

"From there they took me back to the cell of the collaborators and when I entered the room Abu 'I. started slapping and kicking me

with his hands and feet. Abu 'I. said: You think we are all collaborators and you are the only patriot? I will go with you through the whole prison so that you will see that I am really a patriot. Then Abu 'I. brought me a book called *I Was a Collaborator* by Mazen Fahmawi. He told me to read the name of the book out loud. I read out: I

Torture and Humiliation in the Military Prison at Dhahriyya: Testimony

The interrogation wing of the military prison at Dhahriyya is administered by the Military Police and under its responsibility, with the professional guidance of the GSS.

Qais Muhammad Zbun, from the town of Beit Sahur, was incarcerated in this wing from May 9 -25, 1993. On June 30, 1993, he gave testimony to Bassem 'Eid from **B'Tselem** regarding the circumstances of his interrogation. The following are excerpts from his testimony:

... A soldier then arrived who transferred me to the solitary confinement in a cell 70 cm by 1.80 and 2 meters high. In the cell was a pail for relieving oneself and a bottle with (dirty) water for drinking. It also had a light bulb, a filthy mattress, and three blankets. There was a 15 cm. diameter hole in the ceiling. I slept in the cell until 7 a.m.

During the night a warder would pass by from time to time and pound on the door. I had to answer yes, otherwise he wouldn't stop. At 7 a.m. they took me back to the "closet" and at night brought me back to solitary. This went on for sixteen days.

During this whole period I did not take a shower, I did not change clothes, and I had no visits from my family.

... The interrogators would take me to a room, blindfold me, tie my hands behind my back, and make me stand with my head against the wall for some hours. Another thing they would do was to tie my hands behind my back and sit me down on the floor on my knees, and every so often the interrogator sitting opposite me on a chair would kick me in the testicles.

... Each interrogator would transfer me to a different interrogator. Some of them cursed me and my sister. One of them gave me a piece of wood in the shape of a male sexual organ. He told me it was a present for my sister. Some of the interrogators threatened that they would "fuck" me or my mother or my sister. Some would tell me that I had two possibilities: either to be sentenced to a lengthy prison term or to work with them and they would give me money and release me. They told me they would put me in touch with Jews to whom I could supply merchandise.

The temperature in the "closet" was at least 50 degrees [centigrade]. Each detainee had just one liter of water.

9. 'Ubeid was held inside Israel, and therefore Israeli regulations, and not those pertaining in the territories, applied in his case. The GSS interrogation procedures in the occupied territories and inside Israel are identical.

Was a Collaborator. Abu 'I. said: You see? You have admitted that you are a collaborator.

"Then Abu 'I. said to me: Now I will show you something which if the youngsters see it they will kill you. Abu 'I. covered the bed with blankets and then showed me the picture Benny had taken of me. He said: Now you have to prove to us that you are not a collaborator. He asked me what family I came from. I told him I was from the 'Ubeid family. He said that the name of the mukhtar of the village is 'Ubeid and asked me how I was related to him. I told him that the mukhtar was my uncle. He said: Then you are a collaborator, because all mukhtars are collaborators.

"Four youngsters took me into the bathroom, took off my shirt, brought plastic bags and acted as if they wanted to burn my back with the plastic. They burned the plastic in the bathroom, kicked me in the stomach, and told me they were the "strike forces.

"When they brought me back to the room Abu 'I. gave me papers written in Arabic. I told them that I couldn't read. Abu 'I. grabbed my fingers and made me sign with my finger print.

"Afterward they took me to the bed, which was still covered with blankets from the time that Abu 'I. had covered it. Three of them came with me to the bed. Two grabbed my hands and legs and the third lit a cigarette and began burning my arms. [Bassem 'Eid notes: I saw four burn marks on his arms. See photograph.] All the time they said to me: You are a collaborator. Prove to us that you are not. Abu 'I. started beating me again.

"Then he grabbed me and started kissing me and said to me: You are like my wife. My wife is not here and you are taking her place." He ordered the youngsters to stop everything but not to talk to me and not to give me cigarettes.

"I spent all of Tuesday with them and the next day I was taken for interrogation. A



Burn marks on 'Abd a-Nasser 'Ubeid's arms. Photographed on September 17, 1993.

policeman came and said I had a visitor. It turned out that there was no visitor. The policeman took me for interrogation. Benny and other interrogators said to me: Did you have a good time there? Would you like to go back to them? Benny showed me the papers that Abu 'I. had made me sign. I read the papers and saw that they said I confessed to belonging to Hamas and that I had burned the cafe. I said I had not read the papers before I signed them and that I denied everything written there. "They sat me down on a small children's chair in the room. The whole night I sat on the chair with a sack on my head. The next day they left me there in the same way. Afterward they took me to the dining room. I ate and they took me back to the room. They sat me down with the sack on my head for the entire day.

Torture in the GSS Interrogation Wing at Ramallah: Testimony

The IDF maintains a detention facility at Military Government headquarters in Ramallah, in which the GSS runs an interrogation wing.

On April 22, 1993 Muhammad Ya'qub 'Abd al-Qader a-Nubani, from the village of Mazare' a-Nubani near Ramallah, was brought to this wing. The following are extracts from an affidavit he gave (in Arabic) to attorney Anwar Abu Lafi on September 6, 1993, while still in detention:

... I was immediately transferred to Ramallah prison, where I was taken to the prison clinic for five minutes. The doctor cleaned the blood from my face and body, and GSS personnel took me back to the solitary isolation cell [zanazin], where they torture ["shabeh"]. I had no clothes on except trousers because my other clothes had been torn earlier. I suffered pains in my back because of the "shabeh." I think it's a disc.

Since my arrest on April 22, 1993 I have been severely beaten on my head, chest, and back, and I was in "shabeh" for lengthy periods on a small chair with my hands and feet bound and the chair bolted to the floor, and without sleep for 24 hours.

During the period of my interrogation I was permitted to sleep for one hour every eighty hours, and to this very time when I am signing this affidavit I am suffering from the same torture and "shabeh" and very little sleep. I have been interrogated only twice during the period of interrogation since April 22. I have not changed clothes at all.

"Afterward Benny arrived and asked me why I had holes in my shirt. I told him that the youngsters in the room had burned me with cigarettes. He called my house in my presence and asked me to tell my parents to bring me clothes. I asked my wife to bring me clothes. They took me to an isolation cell where there was electricity, a toilet, blankets, and a pitcher of water. During the entire period I was interrogated and in 'shabeh' (standing bent or partially squatting with hands against the wall) until they took me to extend my detention again, on Thursday (September 9).

"The judge extended my detention for seven days. I showed her the cigarette burns and she asked for an investigation, but the police did not investigate – at least not me. During

the last seven days I was not interrogated at all and on September 15, the police released me on third-party bail of 5,000 shekels. This was the first time I was ever arrested in my whole life.

"I was in detention for seventeen days. In that period I took one shower when I was in the room with the collaborators, and once in the final week. I did not have a single family visit. My lawyer, Tussia Cohen, visited me once. He was supposed to be present at the second extension of detention but they moved it up from Friday to Thursday and he was not informed of the change.

"I received clothing only once – from my parents."

Conclusion

Referring to the "new procedure" in the interrogation of Palestinian detainees, Justice Minister Prof. David Libai, one of its formulators, stated in an interview to **Ha'aretz**:¹⁰

"It seems to me that the regulations permit an effective interrogation by the security services, while striking an appropriate balance with the preservation of individual rights and the dignity of the person under interrogation. The rules prohibit torture and bar the use of physical violence."

In the interrogation of 'Abd a-Nasser 'Ubeid, which was conducted under the "new procedure," GSS interrogators and their lackies made use of the following methods:

1. Making the detainee stand with hands tied, often blindfolded and in painful positions, for hours on end.
2. Sleep deprivation.
3. Deprivation of food and drink.
4. Threats to his and his family's life.
5. Threats and sexual harassment.
6. Holding the detainee in extreme conditions of filth (no changes of clothing and denial of a shower for ten days).
7. Slaps, kicks, blows and burning of the arm with a lit cigarette.

All this, according to the testimony, with the purpose of extracting a confession from 'Ubeid, because he was suspected of burning a cafe (an action that took place at night and caused only property damage) some three years earlier.

The torture was in part committed by Palestinian collaborators. They worked in complete collusion with the GSS interrogators, transferring information, photographs, and a coerced confession back and forth. Clearly the full responsibility for the well-being and health of the detainee falls on the detaining authority, in this case the GSS.

'Ubeid's testimony as well as other testimonies cited in this report and testimonies in the possession of other human-rights groups, indicate that the "new procedure" has not fundamentally altered the behavior of the interrogators toward Palestinian detainees.

Even under the "new procedure" GSS and IDF interrogators make systematic, routine use of violence, both verbal and physical, despite the fact that an array of international conventions, to which Israel has affiliated itself, consider such practices to be torture and prohibit them categorically.

10. **Ha'aretz**, June 10, 1993, interviewer: Micha Freedman.

Recommendations

'Abd a-Nasser 'Ubeid was arrested and interrogated in the period between the conclusion of the "Oslo agreement" and its signing in Washington. The use of torture, therefore, did not cease in the wake of the agreement with the PLO, as it did not end with the application of the "new procedure."

Only concrete measures, in the spirit of the recommendations that follow, will ensure the human rights of the detainees under interrogation as they are set forth in international law, and above all will protect them from illegal treatment at the hands of their interrogators.¹¹

1. Shortening the period of detention before remand to 48 hours, as in Israel.
2. Permitting a detainee to meet with his lawyer shortly after the arrest.
3. Revoking the license to use violence against detainees as specified in the Landau Commission recommendations and re-adopted in the "new procedure." All forms of torture in interrogations

must be banned outright, with a deterring punishment for anyone who violates the prohibition.

4. The medical staff in the detention facilities must be made aware of the full weight and gravity of its responsibility for the detainee's health.
5. Removal of all limitations on the medical staff's access to detainees and implementation, by all authorities, of their instructions regarding the detention as such or its conditions.
6. Explicit incorporation into the law of the physician's duty to abide by the ethics of the medical profession.
7. Opening of all wings of the detention and incarceration facilities and prisons to periodic visits by external bodies, including human-rights organizations.
8. Enforcing the obligation of the medical and detention facility staff to report every case in which a detainee is humiliated or ill-treated.

11. For more detailed recommendations see B'Tselem, *Interrogation of Palestinians*, pp. 109-112.

STATE ATTORNEY'S OFFICE

State of Israel

Ministry of Justice
State Attorney's Office
Date: November 16, 1993
Our reference: 72/5
(12794)

Mr. Yuval Ginbar
"B'Tselem"

Dear Sir,

Re: "B'Tselem" Report on the "New Procedure" in GSS Interrogations

Ref: Your letter of November 3, 1993

We have reviewed the draft report which you forwarded to us and the following is our response:

1. In Sec. B of the report, which cites the elements of the "new procedure" for GSS interrogators, as specified in the affidavit of the chief of the GSS, submitted to the High Court of Justice, you unfortunately did not see fit to specify a number of very important elements which were laid down in the new procedure and were declared by the chief of the GSS.

(a) Thus, for example, it was not noted that in every case in which the ministerial committee thought that the old procedure was unclear, or that any authorization might possibly be interpreted more broadly than was its purpose, the committee altered the wording of the procedure with the aim of clarifying the authorizations and preventing any possible misuse of the procedure or of exceeding the permissible.

(b) Nor was it noted that the new procedure emphasizes that no authorization is to be employed with the purpose of humiliating, harming, or torturing those interrogated.

(c) It was not noted that the procedure obligates the interrogator to consider the means he intends to employ against the degree of the anticipated danger according to the suspicions arising from the activity being investigated.

(d) It was not noted that the new procedure states that only with regard to those interrogated suspected of committing serious offenses will the means specified in the procedure be employed – and these do not include offenses which fall under the category of "violating the public order."

Your omission of these and other items could mislead the reader. Therefore, in our view they should be included in the report.

2. At the beginning of Sec. C of the report you state that the changes introduced by the new procedure are "minor and marginal" and that this procedure still effectively permits the use of degradation and torture – psychological and physical.

We wish to stress that the changes that have been introduced in the new procedure are neither minor nor marginal, as is clear in the affidavit of the chief of the GSS, and that the

procedure explicitly prohibits the torture of a detainee or the use of any authorization in order to humiliate or torture a detainee.

It is fitting to recall, in this connection, the first affidavit of the chief of the GSS, submitted to the High Court of Justice on November 8, 1992, in which he pointed to the Landau report's explicit prohibition on the use of physical torture or abusing the detainee or degrading him in a manner that strips him of his humanity. This prohibition is binding on the GSS and is stated explicitly in the authorization procedure. In our view this should be given expression in the report.

We shall note in addition that the beginning of Sec. C is worded in a manner which could mislead the reader, as it implies that the statement "the procedure still effectively permits humiliation and torture" was made by the chief of the GSS himself – which is of course baseless. This point should be clarified.

3. Sec. C(1) of the report makes the claim that the new procedure grants the GSS exclusive authority to determine the severity of the means it may employ.

In this connection we wish to stress that the GSS may indeed employ the means authorized in the procedure – if the conditions permitting their use, as stipulated in the procedure, exist. However, the procedure also emphasizes that any means of pressure which is not explicitly authorized in the procedure is prohibited. This point should also be mentioned in this connection.

4. Because of the secrecy of the new procedure we naturally cannot respond in detail to the allegations made in Sec. C(2) of the report. However, we can only reiterate what has already been stated above: that the procedure does not under any circumstances authorize the torture of detainees.

5. We wish to emphasize that the position of the State of Israel has been, and remains, that the authorization procedure does not conflict with the 1984 "Convention Against Torture" or with other prohibitions in international law. This position was argued by the state during the High Court hearing mentioned in the report. Therefore there is no foundation for the claim made in Sec. C(3) of the report that the procedure contradicts the convention and international law.

6. As for the allegations made in pp. 10-15 (English) of the report, regarding the interrogation of 'Abd a-Nasser 'Ubeid, a complaint regarding his affair reached the Ministry of Justice – following his appearance before Judge Y. Tzur in the Jerusalem Magistrates Court – on September 13, 1993. The above-mentioned complained to the judge and she ordered his complaints to be investigated. The complaint was examined and the results of the inquiry held in the matter reached the Ministry of Justice on October 25, 1993. After considering the results of the examination, the authorized officials reached the conclusion that the examination was still incomplete.

Therefore, at the present stage, no substantive response can be made to the complaint.

7. Nevertheless, we wish to emphasize that even if it is found that GSS interrogators in this particular case – which is extensively described in the report – exceeded their authorization, this cannot be construed to attest "that the 'new procedure' has not fundamentally altered the behavior of the interrogators toward Palestinian detainees," as the report alleges.

8. Regarding the interrogation of the detainee Qais Muhammad Zbun, which is mentioned on p. 13 of the report, this refers to a detainee who was in Dhahariyya prison, which is administered by the army and over which only the Military Police have control. Therefore the complaint in his affair should be directed to the IDF Spokesman.

9. Regarding the complaint of the detainee Muhammad Ya'qub Abd al-Qader a-Nubani, cited on p. 15 of the report, this detainee was interviewed on July 15, 1993 by an examiner of detainees' complaints, after a complaint in his affair had been transmitted on June 9, 1993 by attorney Leah Tsemel to the minister of defense. Additional complaints in his case were also submitted by various bodies.

The complainant claimed in the interview that he had suffered from back pains for a number of years and that his condition was aggravated in the interrogation by his sitting on a low chair. He added, though, that the medical treatment he received in prison had helped him and that he had been permitted not to sit on a small chair. He rested more, was moved to a larger cell, and was no longer upset. He added that he had not been humiliated and had received meals regularly. The interviewee stated, in conclusion, that as of the date of the interview he had no further complaints.

However, he claimed that during his arrest he had been struck and bloodied on his upper lip by soldiers, although he had not required medical treatment. The examination of the complaints in this matter are not our affair but are in the hands of the army authorities. Therefore it is the IDF Spokesman who should address this complaint.

As for the allegation made in the letters of the various bodies that the detainee was also beaten on the face and chest by a GSS interrogator, this complaint was not raised by the detainee in the interview. In any event, the allegation was denied by the GSS interrogators and no corroboration was found for it in the medical file. We shall add, further, that from both the interview that was held with the medic in the facility and with the complainant, and from an examination of the medical file, it emerged that in the course of two months the complainant was examined and treated some ten times by a physician for his back problems. The examination found, therefore, that the complainant had received suitable medical treatment. Nor did the examination turn up any deviation from GSS procedures. Replies in this spirit were sent to the various complainants.

10. Of course, if the publication of the report is deferred for an additional time, we shall be able to respond more fully to the case of 'Ubeid, which is a central issue in the report. However, as things stand today, as long as the inquiry has not been completed we are unable to address this issue in order not to thwart the purpose of the inquiry.

11. We would be grateful if this response is published in full in the report.

Sincerely,

Shai Nitzan

Senior Deputy to the State Attorney

IDF SPOKESPERSON'S RESPONSE



On Line

'Betsalem Report' - New Procedures for General Security Service (GSS) Questionings

Since the report deals mainly with questionings by non-IDF bodies, it was decided to comment solely upon the sections of the report dealing with IDF activity and questionings carried out in IDF questioning facilities.

A. 'Authority to Arrest' regulations and the denial of the right to consult an attorney in Judea, Samaria and Gaza.

Betsalem's claims concerning this issue are factually incorrect. The 'Authority to Arrest' regulations permit a soldier to detain a suspect for a period not exceeding 96 hours. Beyond this, a police officer has the authority (neither a soldier nor a GSS employee has this authority) to extend the period of detention, on the condition that the total duration of his detention does not exceed 8 days (starting from the time of arrest). Exceptional cases are those concerning an adult suspected of murder, manslaughter, possession of firearms, kidnapping or causing grievous bodily harm. In these cases a police officer of the rank of inspector or above may extend the period of detention should the circumstances of the investigation so necessitate. In any case, the total period of detention shall not exceed 18 days.

The law in Judea, Samaria and Gaza explicitly states that should there arise a need to extend the period of detention, at the end of the aforementioned period the detainee must be brought before a judge.

The regulations governing arrest procedures in IDF military law have been democratically accepted in the Knesset, following the legislation of the 'fundamental law' of 'Liberty and Dignity of the Individual'. The 'fundamental law' stresses the right to protection from arrest as a fundamental right under Israeli law, and enables the nulling of legislation passed afterwards should the new legislation run counter to it.

According to the regulations governing arrest procedures, it is possible to arrest an individual who is subject to the jurisdiction of IDF law (which includes not only soldiers), with judicial supervision, for a period of 25 days. This arrangement was democratically accepted by the Knesset despite the 'fundamental law' of 'Liberty and Dignity of the Individual'.

The logic upon which the regulations governing arrest procedures in IDF military law are based is that security needs must be considered even in a democratic country, and that they must take precedence - albeit to a limited extent - over the complete fulfillment of certain basic rights. This holds especially true for a military administration engaged in a struggle against violent elements, and when there is a necessity to create regulations to facilitate criminal investigations against dangerous criminals.

It should be noted that these arrangements are even more lenient than similar ones in force within the 'Green Line'.

With reference to the claim of denial of the right to consult an attorney; the law in Judea, Samaria and Gaza explicitly states that is it the right of every detainee to meet and consult with a lawyer in private, under conditions that will ensure secrecy. High-ranking police and IDF officers, and the head of a GSS interrogation team may withhold this right from the detainee for up to 15 days, upon presenting their reasons for so doing in writing.

This can be done only if the delay is necessary for specific reasons detailed by law, and the detainee is suspected of having committed a serious crime, as also defined by law. It should be noted that these regulations are not automatically used for every detainee. Withholding a detainee's right to consult a lawyer for up to 15 days is also possible under Israeli law when serious offences are involved; offences similar in character to those encountered in Judea, Samaria and Gaza.

B. Abed Al Nasser Ali Aisa Obeid's Testimony

According to the detainee's testimony, which appears in the 'Betselem' report in question, the issue concerns a resident of Jerusalem not under the jurisdiction of the law in Judea, Samaria and Gaza. He was arrested by members of the Israeli Police and taken to a police detention facility. According to his testimony, he was brought before a judge for the extension of his period of detention in less than 48 hours from the time of his arrest.

'Betselem's' recommendation on the issue, based on Abed Al Nasser Ali Aisa Obeid's testimony as it appears on p.14, according to which 'concrete steps' must be taken in order to shorten the period of detention without judicial intervention to 48 hours is thus surprising. It is also apparent that the classification of Abed Al Nasser Ali Aisa Obeid's testimony together with the issue of detainees in Judea, Samaria and Gaza is mistaken, and distorts the overall image of questionings in Judea, Samaria and Gaza.

C. Questioning Procedures and the Use of Force by Military Investigators - a Reserve Soldier's Testimony

The rules governing questioning in army facilities are regulated by IDF standing orders, in which are clear and detailed directions and procedures. The IDF prohibits any use of force by soldiers in detention and questioning centers, including the use of "moderate physical force" by military investigators. Whenever a complaint is presented, or alternatively when there arises evidence concerning conduct unbecoming of an investigator, the matter is transferred to the military police for investigation without delay.

A pertinent example is the case regarding the verdict of the Military Court of Appeals concerning two soldiers who were convicted of striking an Arab detainee. The court sentenced the soldiers to serve a prison sentence lasting several months, stating the following: "Behavior of this kind is completely unacceptable in a proper military framework. It tarnishes the image of the IDF among the local population and among any one to whom morals and norms of conduct are not an alien concept." In addition to this, the policy of the army is to investigate each complaint concerning the use of violence against prisoners. This will also be done regarding the complaints of Kais Muhammed Zavon, Muhammed Ya'akor Abed Al Kader A-Nubani and the reserve soldier mentioned in the report, should detailed complaints be presented to the military police, wherein a thorough investigation will be opened.

Clarifications concerning the Complaint of the Detainee Kais Zavon:

- A) The aforementioned remained in the questioning department nine days, not seventeen days as claimed in his testimony.
- B) The detainee stayed in a double cell with dimensions measuring at least four square meters, and not as he was quoted in his testimony.
- C) In each cell there is a jerrycan or bottle of water which the detainees themselves fill.

- D) Each detainee is provided with three blankets in the summer months and seven blankets in the winter period.
- E) The detainees are not held in "closets." There exists a waiting cell for detainees awaiting a questioning session, and their use is authorized by law according to the Chief Medical Officer's Headquarters, the Military Advocate General's Headquarters and the Chief Provost Marshal's Headquarters.

B'Tselem - The Israeli Information Center for Human Rights in the Occupied Territories, was founded in February 1989 by a group of lawyers, literary figures, academics, journalists, and Members of Parliament. **B'Tselem** documents human rights abuses in the Israeli-Occupied territories, and brings them to the attention of policy makers and the general public. **B'Tselem**'s data are based on independent fieldwork and research, official Israeli sources, the media, and data from Palestinian sources, most notably the human rights organizations PHRIC and al-Haq.
