

Notes on the History of Torture in Israel

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I was first exposed to cases of torture during what were known as the "Haifa Trials". In 1972, many people – a few Jews and many Palestinians – were tried in Haifa for espionage or for having contacts with illegal organizations. Many Palestinians who were interrogated during this time told their own stories of interrogation, though I was not very impressed. I believed them and I knew that their accounts were true, but it didn't shake me as much as the story of Rami Livne, an Israeli man from Tel Aviv, who claimed that he had made a confession under pressure and without free will, although no one had touched him physically. During the interrogation, which took place in Jalameh (Kishon) prison, near Haifa his interrogators told him, "You are Jewish, the son of a Parliament member for the Communist party. We will not touch you, but you will speak; you will confess." To fulfill their promise and make sure that he confessed, they brought his best friend, Shawki Khatib, into the interrogation room, poured water on him, and used a car battery to electrocute him repeatedly. Shawki pleaded, "Don't confess, don't break!" But of course, by playing on his conscience, the interrogators were able to break Rami very easily, and he confessed.

The Haifa Trials were only the beginning of my exposure to torture cases, because subsequently all manner of very cruel tortures – indeed those classic tortures that you read about in books and hear of in Guantanamo and Iraq – were used here very often. There were so many detainees to interrogate using these methods that they had to shorten the interrogations in order to process more people. Two main bodies carried out the torture: the General Security Services (GSS or Shabak), which

continues to do so today, and the Military Intelligence. The Military Intelligence was involved in the interrogation of detainees who had been kidnapped from abroad or had infiltrated the country. The interrogations by the GSS took place in detention centers all over the country, in almost every jail, and by the Military Intelligence first in the infamous Sarafend military base, and later at the old British police station of Gadera. At times, cell after cell in this old encampment, which was entirely surrounded by attack dogs, held people who had been brought in from outside the country, interrogated, hanged, attacked by the dogs, and subjected to all kinds of

extravagant tortures. The Gadera facility is no longer active, and to my knowledge it has been replaced by the "1391" secret facility, the use of which was challenged by HaMoked in a petition to the Supreme Court.¹ As far as we know, Sheikhs Dirani and Obeid were tortured there. The facility was exposed only when Palestinians from the West Bank were brought there.

Of course, the vast majority of the interrogations of thousands of Palestinians took place in the GSS centers. Today, the fact that most of the interrogations of political detainees involved torture or ill-treatment during the first 32 years of the Occupation is no secret. Almost every Palestinian who was interrogated can tell you about the sleep deprivation, the denial of access to a toilet or shower, the hunger, the physical pressures, including being made to sit tied to a small stool for days, the beatings and the

kicks, the threats, the hanging, the bending, the shaking (sometimes to death), etc.

Most defendants would try to challenge their confession during their trials through a special procedure designed especially for such claims. However, it was, of course, almost impossible to retract a confession or obtain a favorable ruling from the courts in such cases. There was certainly no chance of obtaining a decision that criticized the GSS or the Military Intelligence. But these countless special procedure trials, most of which took place in a military court (and it is worth mentioning that up to fifteen years ago there was also a military court in Israel, which ruled in security cases involving Arab citizens), made it very clear – and this is the important point – that each and every person in this industry, policeman and guard, doctor and nurse, and every judge, prosecutor, and soldier involved, knew about the torture and ill-treatment of detainees. Detainees used to be dragged into courtrooms stinking, shivering and crying. It was common knowledge.

The Israeli general public was first exposed to these practices in 1977, after the New York Times published an article containing testimonies given by people from all over the country, young and older Palestinians, who had been tortured. And the reaction of

¹ HCJ 9733/03, *HaMoked v. The State of Israel* (decision delivered on 20 January 2011).

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then-Prime Minister Menachem Begin was, "I didn't know it existed! A Jew would not torture." And indeed they then stopped using electrocution and, in part, the hanging. Later on, there were, of course, new and more subtle variations, but the exposure by the media was effective in some way. As a result, the more brutal methods of torture were replaced by other, equally effective, methods.

A landmark was the Nafso case from 1980, in which a Circassian Israeli army officer who worked with collaborators in South Lebanon was interrogated and tortured by the security services. He later happened to see his main torturer from the security services on the news, and exposed the fact that the officer had tortured him. In 1984, there was the Bus 300 incident, in which four Palestinians hijacked an Israeli bus. Two were killed during the takeover operation by the security forces, and the other two were killed after being taken into custody by the GSS, which blamed the army for their deaths.

In the wake of these incidents, in 1987 the Israeli government established the Landau Commission, which looked into the practice of torture and came to a very clear conclusion: torture is sometimes permissible, but lying to the courts is intolerable. You cannot lie to the courts. If you have to torture someone, you must refer to a secret list of permitted and non-permitted methods, and if you use any of these permitted methods you must disclose it. The Commission's recommendations did lead to a reduction in the use of the more horrific methods of torturing, in that you could no longer be "original" in your torture. There were rules and the interrogator had to go according to the book. I am sure that there were experts who made the calculations of how many hours a person could go without sleep, how far you could stretch his arms before the damage became irreversible, etc. They had an actual booklet. It became practical and scientific. The security service interrogators even had to fill out forms. Can you imagine? I have some of those forms. They would take a person, write down his or her name, and fill out special forms for each of the various methods of torture. So, for example, for "hanging," the interrogator would record from which time to which time someone was hanged, where he was hanged, and when he was "brought down." There were similar forms for "bending" and "sleep deprivation." It was all written down. Everyone in the GSS wanted to be able to claim, one day in the future, that they had simply carried out orders and were not personally responsible. So not only did they merely carry out orders, but they also had it in writing.

Following the new procedures initiated by the Landau Commission, there was a long period in which we brought many cases of detainees who had been tortured during interrogation to the Supreme Court. By we, I mean all the human rights organizations and human rights lawyers. Together we found that appealing to the Supreme Court was an efficient means not only because the court stood at the top of the hierarchy, but also because it attracted the most attention. And I do believe that the accumulation of the cases in the Supreme Court had some impact on the justices, and on one judge in particular, Dalia Dorner, a former military court judge in the Lod

Military Court. She became a Supreme Court justice when she left the army, and I think that she was particularly overwhelmed by both the number of cases and by the evidence that we brought before the court.

This build-up of cases came to a head in 1999, when the Supreme Court issued its ruling that torture was practiced, and was illegal. In parentheses it also stated that torture could be permitted in situations of "necessity". So the question is, "What has happened since the revolutionary decision of 1999?"

Torture in Israel has changed in the wake of the 1999 Supreme Court decision. We no longer see the more brutal methods of torture being employed as general practice. What we do see is something far shrewder, though it has not lost any of its efficacy. Of the three new mechanisms that I will describe this morning, the first and most elaborate is what I call "the Palestinian theater." Well-organized Palestinian theaters in prison, involving the use of collaborators, provide the framework for the interrogation and are effective in the extreme. In this show, a collaborating Palestinian prisoner will pose as a head of a secret prisoners' cell in prison and demand information from the detainee using threats and persuasion. I cannot say that the theater is free of torture, because the cast also use brutality. Sometimes the actors, the collaborators, use torture, though their main technique is to create false situations in order to gain the detainee's trust and confession.

Why, then, is this theater so effective? It seems that the detainee, upon meeting the collaborating prisoners, feels a sense of relief and comfort after the harsh interrogation. After the threats and humiliation of the interrogation, the detainee is brought to his cell, where he is greeted by "friends" who often claim to belong to whatever organization the interrogators believe the detainee belongs to, and who trick the detainee into confessing whatever it is they want to know. These friends, or "*Asafeer*" (birds), are kind and, after the harsh and threatening interrogation, having the detainees come into a warm, friendly room is a very effective tactic. If the detainee has nothing to say, then the *Asafeer* try to convince him that confessing is in his own best interests. Those who do not confess in this welcoming environment are threatened to ensure that they confess. The threats vary, but the most popular one involves accusing the detainee of collaborating with Israel or even of being a GSS agent. Of course, all these conversations are recorded by the *Asafeer*, and these "friends" bring the material back to the security service interrogators. When the detainee is brought back to the interrogation room, he finds all this "evidence" laid out before him. In the end, this theater works.

The use of collaborators is also effective for purposes of anonymity. If an interrogator wants to torture, he needs a written permission for each form of brutality he employs, whereas the identity of the *Asafeer* remains secret. We see permission requested in cases that meet the conditions of the "ticking bomb" doctrine of "necessity", as envisioned by the Supreme Court. However, in the so-called "military investigations"

the definition has been broadened to justify the torture of a person who merely "knows someone who may know something that may help prevent an upcoming, though not necessarily immediate, danger."

Other methods used during the interrogation are not referred to as "direct" torture and therefore do not require permission. These include shouting, threats against the detainee and his or her family, and, above all, spitting. All the interrogators have developed their own saliva factories, and so whenever they speak to the detainees they spit on them. It works fantastically and we hear about it often. The interrogators spit and the person under interrogation cannot even wipe the saliva off his face because his arms are tied to the chair. The humiliation is incredibly profound and grows deeper the longer they are left sitting there with saliva dripping down their faces.

The second most common mechanism is the lie detector machine. Whether it's an actual, functioning machine or not is unclear, but either way it is extremely helpful to the interrogators. They tell the detainee, "The machine doesn't believe you. You are lying. You have to satisfy the machine. Say something else." While the results of the machine cannot be used as evidence in court, it is frequently used by the security services to justify to the court the need for additional days of interrogation with a particular detainee.

The third mechanism underlines the first two. It helps to create the imaginary world of the theater, and makes the use of unauthorized methods of interrogation possible: isolation. Every security suspect under interrogation is automatically and immediately denied access to a lawyer. It is so simple, so easy. It is part of the complete isolation of the detainee and it is very effective. People are totally lost. They do not know what to do. They do not have access to a lawyer or to anyone else besides their interrogators. They are not even allowed a visit from the Red Cross until a late stage. The isolation, which is grounded in draconian legislation, is, of course, what makes torture in Israel possible, both torture of the body and of the mind. It continues and we cannot become complacent.