



THE SYSTEMATIC TORTURE OF PALESTINIANS IN ISRAELI DETENTION

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Since the establishment of the state of Israel in 1948, the Israeli Security Agency (ISA) has been systematically torturing Palestinians using a variety of techniques.

The international legal regime prohibits torture through customary international law as well as a variety of international and regional treaties. Whilst Israel ratified the Convention against Torture (CAT) in 1991, it has failed to incorporate it into its domestic legislation. Moreover, despite the UN committee's affirmation to the contrary, Israel claims that CAT does not apply to the Occupied Palestinian Territory. This allows Israel to assert that there is no crime of torture in Israel, with it actually permitted in cases of "necessity," also known as the "ticking bomb," a security doctrine used by many governments to justify torture and violence in situations considered time sensitive.

Israel has also passed several rulings around the issue of torture that have bolstered and condoned the activities of its security services. For instance, though in 1999 the Israeli Court of Justice issued a ruling to the effect that ISA interrogators were no longer allowed to use physical means in interrogations, the court added a clause that provided a loophole for interrogators, namely that those who use physical pressure will not face criminal responsibility if they are found to have done so in a ticking bomb situation or out of necessity for the state's defense.

Though Palestinian human rights organizations regularly submit complaints to the Israeli authorities they rarely receive a reply, and when they do it is often to inform them that the case file has been closed due to a lack of evidence.

Israeli law also permits the military to hold a prisoner for up to six months without a charge under a procedure known as administrative detention. It is during the period of initial detention, whether administrative or otherwise, when prisoners are often deprived of contact with lawyers or family members that they are subjected to the most severe forms of interrogations and torture.

Children are not spared the ordeal of imprisonment and torture within the Israeli military system, and are nearly always denied the presence of parental guardianship during interrogations.

Whilst physical torture can leave serious bodily damage, including broken bones and chronic muscle and joint pain, especially as a result of stress positions or being confined to a small space, the psychological damage can be even worse, with such conditions as deep and lasting depression, hallucinations, anxiety, insomnia, and suicidal thoughts.

Many mechanisms of torture require the complicity of actors within the Israeli military court system, including medical personnel. This occurs despite the fact that the code of medical ethics as defined by the Declaration of Tokyo and Istanbul Protocol includes the stipulation that doctors must not cooperate with interrogators conducting torture, must not share medical information with torturers, and must actively oppose torture. Doctors in Israel are, for example, complicit in force feeding – another, albeit less common, mechanism of torture used by the Israeli regime.

For Palestinians, torture is just one facet of the structural violence they face at the hands of the Israeli regime, which entraps them in an open-air prison and deprives them of their fundamental rights. It is also one that receives little attention from the international community, usually because the Israeli authorities use arguments of state security bolstered by the “war on terror” narrative.

On May 13, 2016, the UN Committee against Torture recommended more than 50 measures to Israel following a review of its compliance with the Convention against Torture. These are, of course, important recommendations, and Israel should be made to comply with them. Yet in a time when third state actors are generally unwilling to hold Israel to account for violating international law and Palestinian rights, they are not enough.

Policy recommendations

- Organizations and groups should build cases of individual criminal liability outside of Israel and Palestine for those involved in the torture of Palestinians. Accountability can be extended not only to those who commit the torture but also those that aid, abet, and omit information about it.
- The Office of the Prosecutor of the International Criminal Court, with all the information and detailed reports that have been presented to it, should launch a formal investigation into violations within the Israeli prison system.
- State signatories to the Geneva Conventions and international human rights organizations need to pressure the International Committee of the Red Cross to uphold its mandate to protect Palestinian detainees and open an investigation into all accusations of torture.
- Palestinian civil society and institutions should continue to support those working to aid victims of torture.