



مركز الميزان لحقوق الإنسان
Al Mezan Center for Human Rights

FACT SHEET

TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT:
THE PALESTINIAN PRISONERS AND CIVILIANS, THE GAZA STRIP,
AND ISRAELI AUTHORITIES



1 NOVEMBER 2014 - 31 OCTOBER 2015



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Project funded by the European Union - Joint Project of Al Mezan Center for Human Rights, Adalah, and Physicians for Human Rights-Israel. The contents of this report are the sole responsibility of Al Mezan Center for Human Rights and under no circumstances should be regarded as reflecting the position of the European Union

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INTRODUCTION 

The use of torture and cruel, inhuman and degrading treatment (CIDT) is considered to be one of the most flagrant violations of human rights and international humanitarian law, and one that threatens life and human dignity. International law prohibits the use of torture and CIDT. Both the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) state that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.¹ Additionally, the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment does not allow for the use of torture or CIDT under any circumstances, explicitly stating that “[n]o 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”.² This includes situations of conflict and occupation. The Convention against Torture provides the internationally-agreed legal definition of torture and further details of how and when certain practices may constitute torture.

The 1949 Geneva Conventions and Additional Protocols of 1977 contain a number of provisions that absolutely prohibit torture and other cruel or inhuman treatment and outrages upon individual dignity. In particular, article 32 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War prohibits torture, while article 147 designates the use of torture as a grave breach of IHL. The Rome Statute of the International Criminal Court lists torture as a crime against humanity (article 7), when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack, and considers torture and inhuman treatment to constitute a war crime (article 8).

This factsheet sheds light on the various forms of physical and psychological torture and CIDT that Palestinians were subjected to by Israeli authorities during the reporting period of 1 November 2014 to 31 October 2015. The treatment includes, but is not limited to, various forms of pressure during arrest and detention; denial of access to medical care and ill-treatment of patients traveling via Erez crossing; forced feeding of detainees on hunger strike; humiliating treatment of fishermen, and punitive home demolition.

¹ Article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights
² Article 2(2) of the Convention against Torture

PART ONE
ARREST AND DETENTION



Palestinians are often subjected to a series of violations during arrest and detention by Israeli forces. During their arrest, detainees are regularly blindfolded, beaten, and verbally abused. Many Palestinian detainees are subjected to forms of physical and psychological torture during detention for the purposes of obtaining information or coercing a confession. Detainees are also detained in circumstances that fail to meet the Standard Minimum Rules for the Treatment of Prisoners of 1955.

According to Al Mezan's monitoring and documentation, during the reporting period, Israel released 22 detainees that were being held from the Gaza Strip. Most of them reported that they were subjected to physical and psychological torture and ill-treatment. Seven of the detainees were beaten, 13 detainees were verbally abused, and six detainees were held in stress positions.

Stress positioning refers to a particularly painful form of torture where the detainee is held in positions that are stressful for the body, both standing and sitting. Low slanted chairs, tables and other props are used. This form of torture is accompanied by painful hand and leg cuffing, an opaque sack over the head, and often loud and repetitive music.

1. 'the banana', which involves the interrogators turning the chair so that the detainee sits with the backrest to the side with his hands tied, then he is pushed backwards so that his back arches backwards until his head touches the floor, while an interrogator sits on his stomach and chest;
2. 'the table' position, where the detainee is forced to lie face-down on a table with his hands tied behind his back; an interrogator tightens the hand-ties from behind as another interrogator pulls his face upwards;
3. 'the squat' position, where the detainee is made to squat on the ground, bent for a long time, while an interrogator stands behind him to stop him falling down.

TABLE:
PHYSICAL AND PSYCHOLOGICAL TORTURE DURING INTERROGATION

This table illustrates the various types of torture and ill-treatment used during interrogation based on Al Mezan's interviews with the 22 released detainees.

Type of torture and CIDT	Number of victims
Stress position	22
Tight leg binding	22
Sleep deprivation	20
Humiliation and verbal assault	19
Blindfolding	12
Food and water deprivation	11
Coercion to collaborate with Israel	11
Prevented from using the toilet	9
Death threats	8
Stripping	6
Threats to rape their relatives	4
Beating on sensitive parts of the body	3
Suffocation with plastic bags	2
Dousing in cold and hot water	2
Severe beating	2
Head beaten against the wall	2

SUMMARY OF AFFIDAVIT FROM FORMER DETAINEE AHMED DAWWAS

At approximately 7:30 pm on Thursday, 24 November 2011, Israeli forces arrested Dawwas at Erez crossing while he was on his way to Gaza from the West Bank. He was detained in a cell of approximately 1.5 square meters in area. He was detained there for around 20 days during which he was interrogated daily. The interrogators verbally abused him and beat him on different parts of his body. He was forced to stand with his face to the wall and remain on a small, low chair. Dawwas was then transferred to Ashkilon prison for several days. The interrogation began again. He was taken to a room where his hands and legs were cuffed to a bed and left there for two days without food or water. He was not allowed to go to the bathroom. Two interrogators then came and asked him to confess.

FISHERMEN

Israeli forces continue to implement a policy of CIDT against Palestinian fishermen, who are regularly harassed and arrested while carrying out their work in the Israel-controlled restricted fishing zone off the coast of the Gaza Strip. During the reporting period, Israeli forces arrested 58 fishermen, including four children. The Israeli forces killed one and injured 27 fishermen in the same period and confiscated 18 fishing boats.

The arrests are humiliating and degrading in nature and require the fishermen to strip their clothes, often in very harsh weather conditions, swim to their own arrest, and remain blind folded for long periods of time. Once taken to Ashdod port, the arrested fishermen are interrogated about their families and communities. The environment is extremely coercive, with blackmail used against detainees and attempts to force the fishermen to collaborate with the Israeli authorities. The fishermen are left extremely vulnerable to torture.

Excerpt from the affidavit of fisherman Mohammed Jamal Al Nu'man:

“At around 6:00 am on Monday, 6 October 2015, while I was in the sea, a big Israeli gunboat approached us. I heard heavy shooting. A soldier ordered us via megaphone to take off our clothes and to swim towards them. He was shouting and verbally abusing me. I took off my clothes and swam for about 20 meters. I was lifted up and a soldier then pushed me to the floor of the boat. He put his feet on my head, blindfolded me, and handcuffed me. I stayed like that for about three hours. Then I was carried to Ashdod port”.

FORCED FEEDING

On Thursday, 30 July 2015, the Israeli Knesset enacted the "Forced-Feeding Law", introduced by the Ministry of Public Security, which authorizes the forcible feeding of hunger striking prisoners. The new law, an Amendment to the Prisons Act (Preventing Damages due to Hunger Strikes), empowers the court to permit doctors who treat prisoners on hunger strike to feed them against their will, which violates the Israeli Patients' Rights Law. The new law is part of the Israeli authorities' attempts to prevent Palestinians from non-violent protest against Israeli policies and practices amounting to grave violations of human rights and international humanitarian law, particularly the United Nations Standard Minimum Rules for the Treatment of Prisoners. Most of the recent Palestinian hunger strikes have been conducted in protest of Israel's practices of detention without charge or trial, notably through the policy of administrative detention, as well as the Unlawful Combatants Law.

Notably, in the 1970s and 1980s, the Israel Prison Service (IPS) tried to use the force-feeding of prisoners to suppress hunger strikes, which resulted in the death of three prisoners: Abdel Qader Abu Al Faham, who died on 11 May 1970; Rasem Halawa, who died on 20 July 1980; and Ali Ja'fari, who died on 24 July 1980.



Photo/ Aida Burnett-Cargill – AL Mezan

PART TWO
OTHER FORMS OF TORTURE
AND ILL-TREATMENT



For over eight years, Israel has imposed a tight closure and blockade on the Gaza Strip. The policy violates the basic, fundamental and inalienable rights of the population of Gaza. The impact of the blockade and closure policy applied to the Gaza Strip amounts to widespread cases of CIDT; the policy results in serious harm to people's dignity and causes severe physical and psychological pain.

PATIENTS ACCESS TO HEALTHCARE

The resulting violations from the closure/blockade include, inter alia, restrictions on the right to freedom of movement and travel, and deprive patients of their right to medical access. Palestinian patients are particularly vulnerable to torture and ill-treatment when attempting to access Erez crossing for medical treatment in hospitals in the West Bank and Israel. Most patient applications to travel via Erez crossing are either delayed or denied; clear justifications are not given. The delay in issuing travel permits for patients also exacerbates the patients' suffering and threatens their lives.

Most patients who are granted access to Erez crossing are subjected to hours of interrogation, during which the Israeli authorities attempt to blackmail and coerce them into collaborating. The authorities ask questions about the patients' family, friends and neighborhood for information gathering purposes. The patients are denied medical treatment and are arrested. The abuse is in violation of the prohibition against CIDT and torture.

According to Al Mezan's monitoring and reporting, four patients who arrived at the crossing either for interviews or with crossing permits, were arrested. The arrest entails a denial or delay in medical treatment and leaves the patient vulnerable to further CIDT and to torture. No patient companions were arrested in the reporting period.

The Palestinian District Coordination Office reported that out of 21,129 applications submitted, which represent fewer patients as many applications require repeated submission in order to receive a response or a permit, 269 patients were interviewed by Israeli authorities. While the interviews could lead to the issuance of a permit, many patients are still denied permits after it. In either case, the patients are left extremely vulnerable to a coercive environment that can lead to CIDT and torture in order for information to be extracted from the patient.

**TABLE:
TORTURE AND ILL-TREATMENT OF PATIENTS**

Al Mezan worked directly with 103 Palestinian patients of Gaza seeking medical treatment in Israel and the West Bank during the reporting period. The table below represents the patients' attempts to secure travel permits from the Israeli authorities in order to travel via Erez crossing.

# of Patients	#of applications submitted				Total
	1	2	3	4+	
		53	26	18	6

Type of applications replies	#of applications submitted				Total
	1	2	3	4+	
Application refused	29	8	5	1	43
Companion refused	7	2	1	0	10
Summoned for interview	0	0	3	0	3
No reply	17	16	9	5	47
Total	53	26	18	6	103

Excerpt from the affidavit of Tawheed Mohammed Al Drimli, male, 26:

"I have suffered from a fracture around my right eye and difficulties with my sight since 13 January 2015. The Department of Referrals Abroad of the Ministry of Health in Gaza decided to refer me to Saint John Eye Hospital in Jerusalem due to the lack of appropriate medical treatment in the Gaza Strip.

I had an appointment on 17 February 2015. I applied for a travel permit at the Health Office at the Palestinian Ministry of Civil Affairs but I did not receive a reply from the Israeli authorities. I obtained a new appointment for 26 March 2015. I applied for another permit to travel via Erez crossing but again did not receive a reply. I obtained a third appointment for 16 April 2015. The Israeli authorities allowed me to pass Erez crossing. I reached the hospital and the doctors made the required examinations.

The treating doctor asked me to return to the hospital in three months' time to undergo a surgery on my eye that would remove fats from the eye; otherwise I would develop diplopia. I went back to the Gaza Strip and waited for three months. I did not receive a reply from the Israeli authorities for my permit requests to attend my appointment on 30 July 2015. I scheduled six new appointments, but did not receive the reply. In this time I developed diplopia and swelling in my left eye. I'm afraid to lose my vision.

PUNITIVE HOME DEMOLITIONS

Israel continues to implement a policy of punitive home demolition and forcible displacement in the West Bank and the Gaza Strip by systematically destroying residential houses for punitive reasons. The home demolitions are carried out for a variety of reasons, including, inter alia, the collective punishment of the families of suspected members of resistance movements and the families of people who have been accused of criminal offenses. In addition to causing severe suffering, the punitive home demolitions are a violation of the Fourth Geneva Convention of 1949 which prohibits any destruction of real or personal property, except where such destruction is rendered absolutely necessary for military operations.³

After a surge in punitive home demolitions in Gaza were recorded last reporting period in the context of Israel's 'Operation Protective Edge' in July-August 2014, this period saw such demolitions only in the West Bank. Such demolitions, that included the filling of homes with cement, were condemned as collective punishment by the International Confederation of the Red Cross.

³ Article 53 of the Fourth Geneva Convention.

CONCLUSION AND RECOMMENDATIONS

Both international human rights law and international humanitarian law are applicable in the occupied Palestinian territory (oPt), and the Occupying Power, is obliged to abide by these laws. The use of torture, and other forms of CIDT, is a grave violation of international law. Israel is a State Party to the relevant international treaties and conventions which enshrine this prohibition in the body of international law. Moreover, the prohibition on torture is a peremptory norm, which means it is accepted by States that no derogation from this norm is permitted, even in cases of war or public emergency that threaten the life of the nation. International humanitarian law also prohibits the practice of collective punishment against civilians in occupied territories.

In violation of their obligations, and as the data in this report indicates, Israeli forces and authorities routinely use torture and CIDT against Palestinians. It is the view of Al Mezan that the application of broad punitive policies against the people of Gaza by the Occupying Power, which results in severe suffering, reaches the level of unjustified and prohibited collective punishment; and the perpetrators of these violations enjoy impunity.

The impact of the blockade and closure policy applied to the Gaza Strip amounts to CIDT; the policy results in serious harm to people's dignity and causes severe physical and psychological pain. As stated above, human rights treaties and conventions "provide that no one shall be subjected to cruel, inhuman or degrading treatment or punishment". According to the laws of occupation, Israel, as the Occupying Power, must end the imposed blockade and closure of the Gaza Strip, and ensure that the basic needs of the civilian population are met.

Al Mezan Center for Human Rights strongly condemns Israel's continued and escalating use of torture and CIDT against Palestinians detained in Israeli prisons, patients who are trying to reach hospitals outside the Gaza Strip, and fishermen at sea. Al Mezan condemns Israel's punitive attacks against homes, which force families to evacuate, rendering them homeless. It is imperative that Israel end the use of torture and ill-treatment against Palestinians.

International law imposes obligations on the Contracting Parties to the Fourth Geneva Convention to "search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts". Therefore, Al Mezan calls on the international community to uphold its obligations under international law by exerting pressure on Israel to respect international law and, in particular, to end the use of torture and CIDT. The international community must also fulfill its international obligations to investigate and provide accountability for violations of international law, especially in cases of torture and CIDT.



Photo/ Rosa Schiano