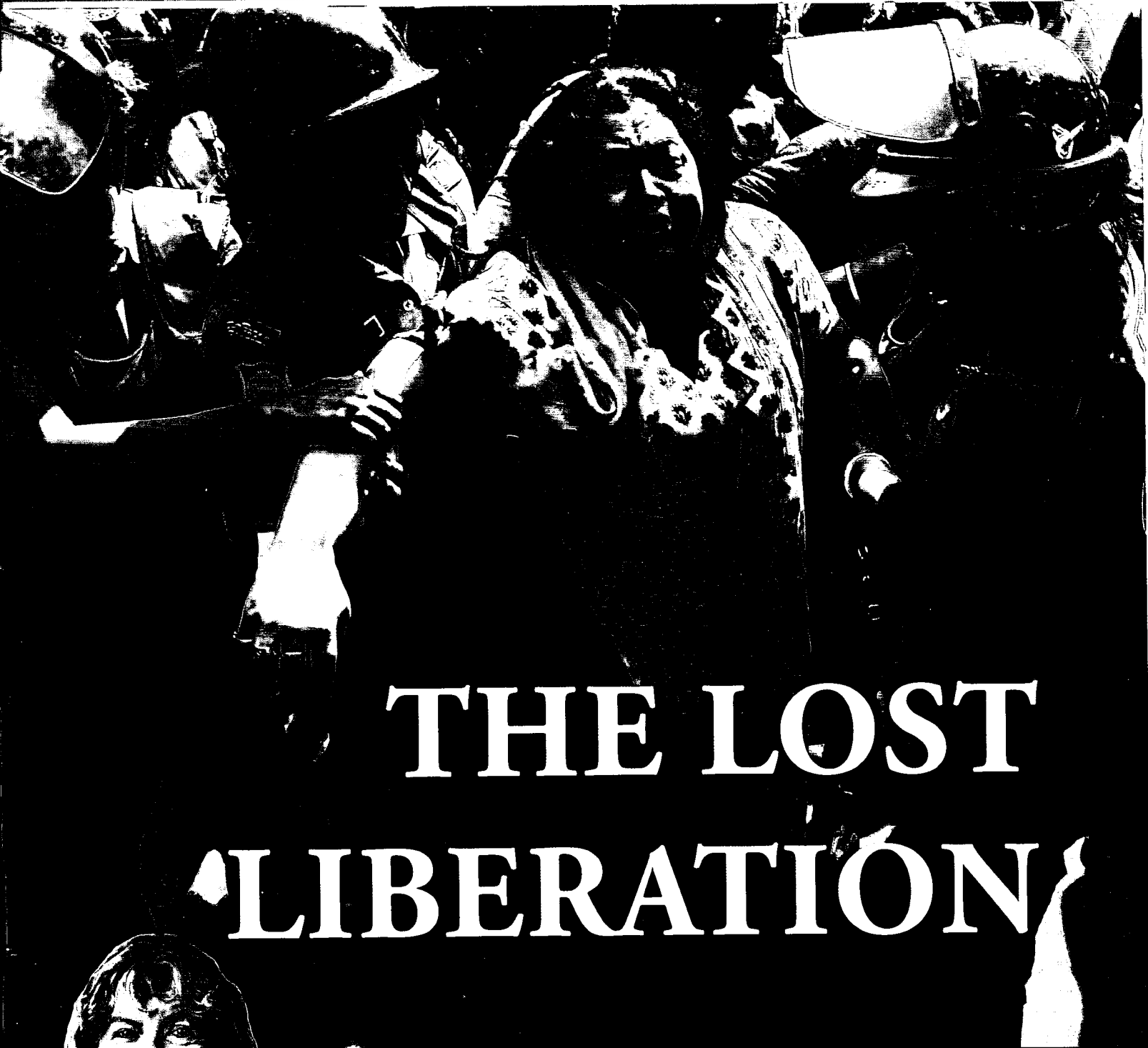


# TORTURE

ASIAN AND GLOBAL PERSPECTIVES



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## TORTURE IN ISRAEL: OPINION

# The Dark pursuit of The Truth

*Torture and Human Rights violations in Israel and Palestine*

by Ludwig Watzal

Torture allegations against the treatment of Palestinians detainees in Israeli prisons make headlines again. A few days after his arrest, Arafat Jaradat died in Israeli custody.

On February 27, the United Nations Special Rapporteur for human rights in the Occupied Palestinian Territories, Richard Falk, called for an international investigation on the death of Palestinian prisoner Jaradat who was undergoing interrogation in an Israeli facility.

Falk stressed that "The death of a prisoner during interrogation is always a cause for concern, but in this case, when Israel has shown a pattern and practice of prisoner abuse, the need for outside, credible investigation is more urgent than ever. The best approach might be the creation

of an international forensic team under the auspices of the UN Human Rights Council."

The violations of the human rights of the Palestinians by the Israeli occupying forces have not decreased despite the peace process and there is no difference between the Labor Party and the Likud bloc. The list of offenses is long: torture, arbitrary killings and arrests, the demolition of houses, the severe restrictions imposed on the freedom of movement by hundreds of check points, violence against Palestinians, land confiscation and the construction of illegal settlements, the "ethnic cleansing" of the Palestinians from East Jerusalem, collective punishments, such as the total closure of territories like Gaza and curfews, and the bombardments of the people of the Gaza Strip.

The list of human rights violations involving Palestinian victims for which the Palestinian Authority (PA) is responsible is similarly long: torture and maltreatment; the denial of fair trials before military courts and the State Security Court, which has the power to issue the death sentence; the intimidation of undesirable persons; the restrictions on the freedom of speech and the press; and the hampering of the work of human rights organizations.

Both, the Fatah- and the Hamas-led governments, use repressive measures in order to control and subdue the population under their reign. After Israel began its offensive in Gaza in 2008/09, Hamas took extraordinary steps to control, intimidate, punish, and at times eliminate, their internal political rivals and those suspected of collaboration with Israel. The majority of Palestinians executed by other Palestinians during Israel's military operations were men accused of collaboration with Israel.

However, one should not forget that the cause of the whole chaos is the illegal occupation of Palestinian land by the State of Israel. Since the start of the Zionist colonial enterprise, the different Israeli governments have tried everything to bring as much Palestinian land as possible under their control, but with the least possible people.

### **Tradition of Torture in Israel**

Torture in Israel has a long tradition, dating back to the "Haifa Trails" in 1972. The Western media outlets have only reported sporadically about this wide-spread phenomenon. The torturers are usually Shin Bet agents (Shin Bet = General Security Service GSS) who run special interrogation sections in some Israeli prisons.

In June 1993, I attended the first conference

on torture in Tel Aviv that was organized by Physicians for Human Rights (PHR) and the Public Committee against Torture in Israel (PCATI). Neve Gordon, then general secretary of PHR and currently professor for Political Science at Ben-Gurion University in Beer-Sheva, declared at the final press conference that 25 to 30 per cent of the detainees were mistreated during interrogation. Stanley Cohen, then professor at Hebrew University, said that a "society that tolerates such practices, requires self-immunization.

"Although torture has become routine, the public is not informed, and they do not even want to know." The publication of the report "On Torture" shows that Cohen's statement 20 years ago still holds true.

In April 2011, Adalah - The Legal Center for Arab Minority Rights in Israel, Physicians for Human Rights (PHR-Israel) and Al Mezan Center for Human Rights in Gaza held a two day international expert workshop in Jerusalem on the subject of "Securing Accountability for Torture and Cruel, Inhuman or Degrading Treatment or Punishment (CIDT) in Israel: New Trends and Comparative Lessons".

Israelis, Palestinians and international experts discussed strategies whether the existing domestic mechanisms of torture and ill-treatment prevention were sufficient and whether the perpetrators could be held accountable. This volume presents the results of this conference. Torture and ill-treatment inflicted by the Fatah- and Hamas-led governments were out of the scope of the joint work of these organizations and they did in no way intend to undermine the gravity of such acts or suffering of the victims. There are several Palestinian human rights organizations in the Occupied Palestinian Territories (OPT) that fight these violations.

In this report, Lea Tsemel, a leading human rights lawyer, gives a rundown on the history of torture in Israel. The two main bodies that carry out the torture are the GSS, which continues to do so up till now, and the Military Intelligence. The last one was involved in the interrogation of detainees who had been kidnapped from abroad or had infiltrated the country. The vast majority of the interrogations of thousands of Palestinians took place in the GSS centers.

According to Tsemel, the Israeli public was first exposed to the torture practices in 1977, after the New York Times published an article containing testimonies by tortured young and old Palestinians. After the Nafso case in 1980 and the Bus 300 affair in 1984, the Israeli government established the Landau Commission, named after the former High Court Judge David Landau. It came up with a list of permitted and non-permitted methods of torture. The permitted methods had to be disclosed. Despite these recommendations, torture continued unabated till 1999, when the Israeli High Court issued its verdict that torture was practiced and was illegal. It also stated that torture could be permitted in situations of "necessity".

According to Lea Tsemel, since then something shrewder happened. In the "Palestinian theater", like the author calls it, the Palestinian detainees are tortured by Palestinian collaborators. These Palestinian "friends" are known as "birds" (Asafeer). Their conversations are recorded and later taken to the GSS agents. Later the detainee is confronted with this "evidence". These "friends" have an advantage over the GSS interrogators; they remain secret.

Torture permission is required in cases of the "ticking bomb" doctrine of "necessity", as envisaged by the High Court, writes Lea

Tsemel. In so-called "military investigations" the definition has been broadened to justify torture of a person who merely "knows someone who may know something" about an upcoming danger. No permission is needed in cases that are not regarded as "direct" torture, like shouting, threats against the detainee and his or her family, and, above all, spitting at their faces. Another mechanism is the lie detector machine and the total isolation of the suspect. In this imaginary world, people are totally lost.

The founding member of PHR in Israel, Ruchama Marton, spoke on the involvement of Israeli physicians in the torture and ill-treatment of detainees. She mentioned that medical personnel involved in such unethical behavior are not exclusive to the Israeli-Palestinian conflict, but rather a worldwide phenomenon. According to her opinion, the medical system functions as an agent of social oversight, regulation and control. "The Israeli Prison Service physicians provide medical authorization for the solitary confinement and isolation of prisoners." Psychiatrists have brought about the continued incarceration of detainees in solitary confinement, causing unequivocal and sometimes irreversible harm to their health, writes the author. Instead of healing, they cause harm.

Manfred Nowak, Professor of International Law and Human Rights at the University of Vienna, and a former UN Special Rapporteur on Torture, gave an overview of the progress and the setbacks during his tenure. There is an urgent need "for hard international law to protect and promote the rights of detainees". In Nowak's opinion, the "most important preventive means are visits to places of detention". And the international monitoring has to be strengthened. Nowak mentions the negative example the Bush administration gave by using torture in their

detention facilities. Other nations asked: Why can't we do the same? Unfortunately, the British already used torture against IRA suspects in the 1970s. With their "ticking bomb" scenario, the U. S. and their torture supporters have been trying "to make torture socially acceptable", writes Nowak.

According to the Israeli human rights organization B'Tselem, more than 700 Palestinian detainees have filed complaints against Shin Bet agents for mistreatment during interrogation over the last decade; however, not a single one has resulted in a criminal investigation being opened.

In violation of the Fourth Geneva Convention, the Israeli government transfers prisoners, including children, for interrogation and detention to prisons outside of the Occupied Palestinian Territories into Israel. Currently, there are 159 administrative detainees held without charge or trial in Israel prisons; almost 4,600 Palestinians prisoners are in Israeli custody. B'Tselem has reported that while incidents of physical abuse have decreased in recent years, they have not ended.

Besides torture, there are a wide range of other human rights violations against Palestinians committed by the Israeli occupying forces. Despite that, officially, Israel has remained a Jewish democracy in which law and order and the freedom of opinion are secured. There is a huge amount of information about the ill-treatment of another people that's why no Israeli could claim that he would not have known about these human rights violations.

#### **Torture and Ill-Treatment under Fatah and Hamas.**

In the course of the so-called peace process in 1993 that led to the establishment of the Palestinian Authority, Yasser Arafat and

later Mahmoud Abbas have been forced by the Israelis and the United States to take on the role of despotic peace angels.

Immediately after his arrival, PLO chief Arafat established a comprehensive security apparatus that was used to intimidate, threaten, arbitrarily arrest and mistreat any critics of the peace process and members of Hamas and the Islamic Jihad. The political situation under the Abbas regime did not change fundamentally, especially, after the Fatah instigated coup in 2007 against Hamas in the Gaza Strip failed. A repressive policy again violated the most basic rights of the Palestinians – the right to life, freedom of assembly and speech, peaceful opposition, and personal security.

Torture and arbitrary arrests are among the common methods. There have also been killings that could not be solved. In April 2009, Human Rights Watch released a report on Hamas political violence in Gaza. The report shows that human rights violations are manifold, including torture, extra-judicial killings, mistreatment, arbitrary detentions, and executions of alleged collaborators.

After Israel's withdrawal from Gaza in 2005, internal violence in Gaza has continued. That led to 14 killings between January and March 2009. The violence has gone mostly unpunished. Only one killing was investigated that was done by members of their security forces or armed wing. Hamas security forces have also used violence against Fatah members, especially those who had worked in the Fatah-run security services of the PA.

In the West Bank, the Fatah-run authorities have also increased repressive measures against Hamas members and their supporters. In 2009, Palestinian human rights groups recorded 31 complaints of

residents who said they had been tortured by Fatah-led security forces. They also recorded one known death in custody and the arbitrary detention of two journalists from a private television station considered pro-Hamas. Besides the Fatah-led security apparatus, Israel's occupying forces too arrest not only democratically elected Hamas representatives but also many Hamas supporters on a daily basis.

In both Gaza and the West Bank, these abuses violate Palestinian law, although the Palestinian Basic Law, considered the interim constitution, prohibits torture and mistreatment. The situation in both Palestinian areas is depressing, not only because of the exerted pressure from the outside, but also due to the increasing brutality of the Israeli occupation regime.

Under the prevailing circumstances in Palestine, there is little hope for democracy and the respect of human rights.

For the whole chaos, however, the Israeli occupation regime is mainly responsible. As a belligerent occupier, Israel has special responsibilities under international humanitarian law to deal humanely with all Palestinians, including those held in detention.

The international community has a similar responsibility to ensure that these international laws are carried out and respected. Why shouldn't these legal standards apply to Israel?

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