



مركز الميزان لحقوق الإنسان
AL MEZAN CENTER FOR HUMAN RIGHTS

FACT SHEET

TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT

GAZA, OCCUPIED PALESTINE

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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

CONVENTION AGAINST TORTURE

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

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 international humanitarian law. 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).

The prohibition on torture under international law is one of the clearest examples of customary international law and is considered to be a *jus cogens* norm. Moreover, the prohibition of torture is complemented by the obligation to prevent torture, which is applicable to all States regardless of where the torture is carried

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

out or whether the State in question is a Party to the relevant international treaties and conventions.

This fact sheet contains information gathered under the combatting–torture project funded by the European Union and implemented jointly by Al Mezan Center for Human Rights (Al Mezan), Adalah—Legal Center for Arab Minority Rights in Israel, and Physicians for Human Rights—Israel. Al Mezan assumes sole responsibility for the information contained in this fact sheet.

This fact sheet sheds light on the various forms of physical and psychological torture and CIDT that Palestinians in the Gaza Strip are subjected to by the Israeli authorities. This fact sheet is divided into two parts: part one focuses on incidents taking place between 1 November 2015 and 31 October 2016—the third and final year of the combatting torture project. Part II gives statistics for the full three years of the project, from 1 November 2013 to 31 October 2016.

PART I: TORTURE AND CIDT AGAINST PALESTINIANS OF GAZA

Israel’s occupation of Gaza through its effective control of the Gaza Strip entails various forms of psychological and physical torture and ill-treatment of the two million Palestinian residents. For nearly ten years, the Israeli authorities have imposed a tight closure and blockade on Gaza—stringently controlling the population—that amounts to severe violation of international human rights law, a prohibited collective punishment according to Article 33 of the Fourth Geneva Convention, and a crime against humanity through the crime of persecution of the residents under to the Statute of the International Criminal Court. The policies and practices that form the foundations of the closure violate first and foremost the basic right to freedom of movement, and subsequently the rights that require movement, *inter alia* the right to health, whereby patients are prohibited from receiving urgent medical care, rights to work, and to an adequate standard of living.

There are forms of torture and ill-treatment employed by Israeli authorities that are documented by Al Mezan but that are not the focus within this fact sheet. One example is the regular, punitive destruction of residential houses throughout the Gaza Strip by Israeli forces. This policy has resulted in the large-scale displacement of hundreds of thousands of people, including children and elderly, into often degrading housing conditions, and results in the maiming of thousands of people, who are often then denied appropriate medical care by the Israeli authorities. The following section focuses on Palestinian patients and fishermen.

Patients

The resulting violations from the restrictions on the right to freedom of movement and travel within the context of closure deprive patients—seeking urgent medical care in the West Bank and Israel—of their right to medical access, which itself amounts to ill-treatment and can amount to torture. Most patient applications to travel via Erez crossing are either delayed or denied without any clear justification. A mere delay in issuing a permit exacerbates the patient’s

medical condition and threatens their lives. A permit rejection can mean a death sentence for the patient.³

The patients who are given access to Erez crossing, either to undergo an interview as part of the permit application process or having been granted a permit to cross, are particularly vulnerable to coercion, and other forms of torture and ill-treatment by Israeli authorities.

The majority of patients who are granted access to Erez crossing are subjected to hours of interrogation, during which time 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 throughout the process—even when physical violence is used against the patients by Israeli authorities—and are frequently arrested—without given reasons for the arrest—after being summoned to the crossing to undergo an interview. The interviews themselves don't guarantee access to a hospital in the West Bank or Israel. The abuse, which involves coercion and/or physical or mental suffering at the hands of officials who are attempting to obtain information or punish the Gaza residents, amounts to ill-treatment and in some cases torture.

Al Mezan worked directly with 133 Palestinian patients of Gaza in need of medical treatment in Israel and the West Bank during the reporting period who were denied permits by the Israeli authorities or who had not received responses, or timely responses, to permit applications. Two of the patients died during and after the delay and rejection of their permits by Israeli authorities.

Of the 133 interventions made by Al Mezan's combatting-torture staff on behalf of patients, Al Mezan was successful in overturning 32 cases, thereby enabling the travel of the patients.

Of the 32 cases whose application decisions were successfully overturned, 11 individuals had been classified as "security threats" by the Israeli authorities within the original permit rejection. This classification was quickly overturned when Al Mezan intervened procedurally in the case, which indicates that there was no genuine security justification behind the initial rejection.

Outcomes during application process:

Type of replies	#of applications submitted				Total
	1	2	3	4+	
Application refused	10	2	0	0	12
Companion refused	34	24	8	3	69
Summoned for interview	5	2	0	0	7
No reply	17	11	13	4	45
Total	66	39	21	7	133
# of cases of death	2				

³ Since 2011, Al Mezan has documented seven cases of patient death due to Israeli authorities' delay and rejection of permits, including of three women

Fishermen

Israeli forces continue to implement a policy of abuse and ill-treatment against Palestinian fishermen, using regularly harassment and arbitrary arrest and detention against the fishermen while they are carrying out their work in the Israeli-restricted fishing zone off the coast of the Gaza Strip. While the Oslo Accords stipulate a fishing zone of 20 nautical miles for Palestinian fishermen, the Israeli authorities typically restrict the zone to six nautical miles, and often attack and harass fishermen within the permitted zone in Palestine's territorial waters.

The arbitrary 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, remain blindfolded for long periods of time, and are often beaten and physically and/or verbally abused. The fishermen's boats and equipment is often confiscated and destroyed. 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 throughout the interrogation. Most fishermen are released within 24 hours without charge as there is no legal basis for the arrest. The indication is that the process is carried out by Israeli authorities for information-gathering purposes.

In the reporting period, Israeli authorities arrested 151 fishermen and injured 20. In the same period the Israeli authorities confiscated 46 fishing boats and destroyed fishing equipment in 16 incidents.

The ill-treatment often requires all fishermen in the area to abandon their work for the day, even within the minimal fishing zone where the catch is already scarce. The fishing equipment and boats represent the fishermen's only source of income, therefore their confiscation results in immediate unemployment for the owner, and possibly the crew. The fishermen have the rights to work, to live free from arbitrary arrest and detention and from torture and ill-treatment, therefore these practice and policies by the Israeli authorities represent serious violations of the fishermen's human rights. The confiscation of Palestinian natural resources is a violation of the obligations of Israel, the Occupying Power.

Violations committed by Israeli authorities against Palestinian fishermen:

# of incidents of arbitrary arrest	36
# of individuals detained within the above incidents	151
# of incidents of live fire used	136
# of fishermen injured within the above incidents	20
# of incidents of boats and equipment confiscated	33
# of incidents of damage/destruction to boats and equipment	16
# of boats confiscated within the above incidents	46

PART II: TORTURE AS A PATTERN

Part two views Al Mezan's data over the three-year combatting-torture project in order to identify the trends in Israeli authorities' policies and practices concerning torture and ill-treatment of Palestinians of Gaza. This section presents Israeli violations against Palestinian patients, fishermen, and detainees between 1 November 2013 and 31 October 2016 as follows:

Data: patients

Al Mezan submitted 268 applications on behalf of patients to the Israeli Liaison Department and obtained travel permits for 88 patients within the three year reporting period. Five of the 268 individuals had their permits rejected four or more times due to their choice of travel-companion—without more details given; four patients were summoned to three separate security interviews—which did not guarantee them a permit; while only three patients acknowledged Israeli authority attempts to blackmail them during the permit process—the actual figure is suspected to be vastly higher, as patients frequently expressed a fear of speaking to us about the sensitive issue; and six patients died while waiting for permits.

Data: fishermen

Israeli forces continuously implemented a policy of ill-treatment and abuse against Palestinian fishermen throughout the three years. The following table illustrates Israeli violations against fishermen in the last three years:

Violations by Israeli authorities against Palestinian fishermen	367
# of incidents of detention	71
# of fishermen detained in the above incidents	264
# of incidents of live fire used	365
# of fishermen killed by live fire	2
# of fishermen injured by live fire	59
# of incidents of boat and equipment confiscation	69
# of boats confiscated in the above incidents	90
# of incidents of damage to boats and equipment	43

Data: detainees

Palestinians are often subjected to a series of violations during arrest and detention by Israeli forces. During their arrest, detainees are regularly subjected to beating and verbal abuse, while often blindfolded and painfully handcuffed. Many Palestinian detainees are subjected to physical and psychological torture during detention for the purposes of obtaining information or a

confession by Israeli authorities. Detainees are also detained in circumstances that fail to meet the Standard Minimum Rules for the Treatment of Prisoners of 1955.

Ill-treatment during arrest within the three year reporting period:

# of detainees	143⁴
Type of treatment⁵	Use on individuals
Beating	81
Verbal abuse	104
Tight handcuffing (often during other abuse)	138
Blindfolding (often during other abuse)	131
Rough physical treatment	20
Other forms of torture ⁶	23

Physical and physiological torture in interrogations during the three year reporting period:

Type of torture	Use on individuals
Sleep deprivation	69
Prevented from using the toilet	57
Blindfolding	68
Food and water deprivation	56
Humiliating treatment	84
Different types of painful stress positions	91
Death threats	47
Repeated beating on sensitive body parts	36
Tight leg binding	68
Attempts to force collaboration with Israel	41
Severe general beating	29
Stripping	24
Head beaten against the wall	11
Suffocation with plastic bags	9
Dousing in cold and hot water	7
Threats to rape relatives	10
Burning with cigarettes	2
Sexual abuse	2

⁴ This figures includes 12 fishermen

⁵ Information gathered by Al Mezan during interviews with ex-detainees.

⁶ This category includes leaving the individual in cold temperatures; facing a standing individual towards the wall for extended periods of time; putting the individual on a bulldozer blade; pouring hot water on sensitive parts of the body; allowing dogs to attack and bite individuals; threatening to pull out teeth with pinchers; use of individual as a human shield, including while searching Palestinian homes; forced nudity; and opening fire around the individual as a scare tactic

CONCLUSION AND RECOMMENDATIONS

Conclusion

The figures in this fact sheet, particularly regarding the continued ill-treatment and torture of fishermen and patients as a matter of policy, demonstrate Israel's complete disregard for its obligations under international human rights law and international humanitarian law. Israel's history with torture must be recognized first and foremost by the State's unwillingness to implement legislation criminalizing torture, which compounded by a lack of accountability and access to justice for its victims. Therefore, the likely trajectory is of continued torture and ill-treatment, with impunity.

The Israeli closure and blockade of the Gaza Strip and restrictions on movement of Palestinians in the oPt as a whole are considered serious violations of the rights and freedoms of the population causing severe psychological and physical pain amounting to CIDT. The policies that prevent freedom of movement hinder Palestinian access to basic human rights and are an assault on the dignity of the residents.

Recommendations

Al Mezan asserts the importance of respecting and maintaining the standards and principles embodied in international law. Crucially, where harm has been done and a crime committed, Israel must provide redress and reparations for the victims and must hold those responsible to account. Al Mezan strongly condemns Israel's continued use of torture and ill-treatment and calls for effective legislation to be implemented criminalizing the torture of Palestinians by Israeli forces and authorities in the oPt and Israel.

Al Mezan calls on the international community to uphold its obligations under international law to prevent the crime of torture from continuing to be carried out by Israel authorities by exerting pressure on Israel to conform to international standards. 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.