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Israelis Use Painful Shackling As Torture

By Stephen Lendman

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Founded in 1990 to highlight a growing problem, the Public Committee Against Torture in Israel (PACTI - stoptorture.org) "believes that torture and ill treatment of any kind and under all circumstances is incompatible with the moral values of democracy and the rule of law. (It) advocates for all persons - Israelis, Palestinians, labor immigrants and other foreigners in Israel and the Occupied Palestinian Territories (OPT) - in order to protect them from torture and ill treatment by the Israeli interrogation and law enforcement authorities."

They include the Israeli Police, the General Security Service (GSS), the Israeli Prison Service (IPS), and the Israeli Defense Forces (IDF). In June 2009, PACTI published a report titled, "Shackling As A Form of Torture and Abuse." Its findings are discussed below.

PACTI reviews the "serious phenomenon" of shackling Palestinian detainees "in a systematic manner and throughout all stages of detention and interrogation." Its purpose is to dehumanize and inflict pain, suffering, punishment, intimidation, and discrimination as a way of lawlessly extracting information even though experts acknowledge that torture is ineffective, counterproductive, and, of course, illegal under all circumstances at all times with no exceptions allowed ever.

Israel's use of shackling "has snowballed almost out of control....even when it serves no real" purpose, and it begins at the time of arrest. Plastic handcuffs are used "that can be tightened but cannot be released or halted." They inflict pain, especially when hands are cuffed from behind, the most common way.

Shackling continues during interrogation, "where diverse and creative forms of cuffing are intended to apply pain and pressure...." Then in cells, detainees are painfully shackled to beds for extended periods. Even when they're transferred for urgent hospital treatment, cuffing stays in place throughout.

In his "Torture Ruling," (HCJ 5100/94 Public Committee Against Torture in Israel v. Prime Minister of Israel), former President of the Israeli High Court of Justice (HCJ), Aaron Barak (1995 - 2006), addressed cuffing as follows:

"A reasonable interrogation is an interrogation without torture, without cruel or inhuman treatment of the interrogee, and without a humiliating attitude thereto. It is forbidden to use brutal and inhuman measures during the course of the interrogation....Painful cuffing is a prohibited action. Moreover: other means exist to prevent escape from lawful custody or to protect the interrogators which do not involve causing pain and suffering to the interrogee."

Interrogators ignored the ruling and keep using procedures prohibited by the High Court as a way to gratuitously inflict pain, suffering, and at times permanent injury and disability.

PACTI cites specific cases and offers a medical opinion on the pain and neurological damage it causes. In response to its demands, interrogators began using new type handcuffs with longer chains, supposedly to limit physical harm. However, they're as harsh as before.

Cuffing During Arrest and Transfer to Interrogation

Painful cuffing begins, even for minors, the sick and women at the moment of arrest to begin breaking detainees' spirit and soften them up for GSS interrogations. Each month, PACTI gets dozens of complaints, and over the past year documented hundreds representing "the tip of the iceberg" about a universally administered procedure. For example:

Alaa Nasser Dib Salem was arrested on October 2, 2008. In his affidavit, he said soldiers cuffed his hands behind his back so tightly that any hand movement tightened his restraint more, causing pain and producing paresthesia (an abnormal tingling or pricking feeling the result of pressure on or damage to peripheral nerves).

Mahmud Faruq Hamed el-Bubali lost feeling in both hands after 30 minutes and made him feel like "my palms were going to disconnect, to be cut off." The cuffing turned his hands blue, and he suffered intense pain, especially in his right hand.

When Yazan Sawalha complained of pain, he was denigrated, laughed at, cursed, and told to shut up even though his hands turned bright blue and red, were very swollen, and he had trouble lifting them.

Rami Mufid Jum'ah's complaint led to further abuse. In transit with soldiers, he was kicked and struck with rifle butts on his shoulder.

A.G, a minor, told of being tightly handcuffed with his hands behind his back and blindfolded. When his restraint was temporarily removed, his left hand was blue and swollen, and his wrist swollen and red. At the Petah

Tikva detention center, a doctor discovered white pus on both his hands.

Each time PACTI submitted a complaint to the Central Command Attorney for Operational Affairs, "no substantive reply" was gotten.

During Operation Cast Lead, Amar Fuad Mahmud al-Helu was arrested, painfully cuffed and held that way for three days. As a result, his shoulder was sprained and dislocated. When he shouted about the intense pain, soldiers tightened his restraint further.

In statements gotten by the Breaking the Silence organization, soldiers corroborated detainee testimonies. For example, Staff Sergeant A. said:

"...handcuff (detainees) and put a cloth over their eyes. Just take them away at night....put the handcuffs on them real tight. It stopped their blood circulation a bit." They were left in a school "for hours, blindfolded and handcuffed, and they had no idea what they'd done...It went on through the day" lasting for hours.

Staff Sergeant B said:

"some soldiers know what the purpose of the handcuffs is and some....think (it's) to stop the flow of blood from the wrist and fingertips....some guys think that you should squeeze the handcuffs as far as possible so that no blood can flow from one side to the other." That's different from just restraining them.

The Medical Aspect

At PACTI's request, Dr. Bettina Steiner-Birmanns said:

"Tight handcuffs - such as narrow and rigid plastic handcuffs with no space between the cuffs and the detainee's hands - press forcefully on the wrists. The detainee is liable to remain (in restraint) for protracted periods. In these conditions, the handcuffs may cause injuries to soft tissue and abrasions, skin wounds, and even fractures. The handcuffs also press on the nerves in the palms, thereby causing paralyses and a loss of sensation in (them). These neurological injuries may be transient but they may also be permanent....From the neurologist's viewpoint....tight handcuffs can cause transient or irreversible damage...."

Correspondence with Army Authorities

All detainees are subjected to the same abuse with slight variations. PACTI asked authorities to provide regulations, procedures, or orders regarding the use of plastic (or other type) handcuffs. In response, Major Zohar Halevy, the IDF Spokesperson's Division Human Rights and Public Relations head, issued a statement saying:

"In principle, force is not to be exercised against another person in order to execute a function or perform a duty unless the function cannot be executed

or the duty performed without the exercising of force."

Regarding forceful handcuffing, Major Halevy added that military police orders establish that:

"the use of force shall be in such measure as is necessary and logical while adapting given the circumstances. This shall be reasonably proportional to the desired goal. (Furthermore), the shackling of detainees outside the detention center shall be effected solely by the use of handcuffs, in such manner that the accompanying MP is shackled by the hand to the detainee, or when two detainees are shackled together and the MP accompanies them.....it must be ensured that the companions have cutters in order to cut the handcuffs when necessary."

In response to a further PACTI inquiry, Human Rights Officer, Captain Gon Erez, said that handcuffing is in accordance with military police commander Instruction No. 9810 concerning "Shackling with Handcuffs - Security Detainees." It states that they're used to:

--prevent self-injury;

-- injury to another person or property; and

-- prevent escape from lawful custody.

Per the military police commander's instruction, ordering handcuffing, including the type, is to be made in writing by the authorizing person, "and this decision shall be examined on an individual basis." Further, "handcuffing shall be in such a manner as is essential in order to secure these goals and as an only and last means to do so. Once the goal is reached, the handcuffing of the security detainee is to be halted." The facility military police commander and medical officer must approve maintaining it for over 72 hours, and handcuffs "shall be removed every three hours for a period of fifteen minutes."

The provisions of commander Instruction No. 9803, "The Transfer and Removal of Detainees from a Detention Facility," must also be followed. It states that:

"force is not to be exercised against a detainee for the purpose of the transfer or removal of the detainee from the incarceration facility unless it is impossible to execute the mission without" it. It's further established that "the use of force shall be in a degree that is reasonable and essential for the execution of the task and shall be adapted to the circumstances....reasonable proportionality is to be maintained between the desired goal and the extent of the force that is exercised" that at all times "shall serve as a last resort."

However, this instruction is vague on details during transfer and removal of detainees from incarceration facilities, thus granting soldiers a margin of leeway to exercise their own judgment and let them be harsher than

necessary.

Nonetheless, the official reply acknowledges no legal basis for painful shackling, yet the procedure "is actually the case in the army" with no justification. As a result of 574 documented abuse cases, PACTI wrote to the West Bank judge advocate general and military police commander on May 13, 2009 demanding that soldiers henceforth be prohibited from using plastic handcuffs as the first and only means of controlling detainees from the time of arrest through their transfer to interrogation facilities. All painful restraint methods were also asked to be eliminated, especially shackling detainees' hands behind their back, and that procedures be established concerning the method and length of detainees' held in restraint. PACTI learned that plastic handcuffs can only be tightened, not loosened or removed unless cut off.

Handcuffing During GSS Interrogations

During interrogations, detainees are isolated and prevented from meeting with an attorney, family members, or ICRC representatives. As a result, they're "subjected entirely to the interrogators' control at all times during the period of interrogation."

They're kept painfully handcuffed in various ways, including "regular" protracted cuffing of hands behind their back as well as their arms and forearms in positions causing severe pain, suffering, and at times permanent harm. PACTI calls "high cuffing" the most extreme form.

GSS interrogators claim the procedure is to protect detainees' well being and prevent their escape. However, they're kept in a secured, closed, carefully guarded facility, making that likelihood nearly impossible.

Detainees are placed on an unupholstered wood, metal, or rigid plastic chair of standard office size. Both hands are shackled behind their back with metal cuffs connected by a short chain to the chair's seat. Most often legs are also restrained, and the chair always is fixed to the floor.

Detainees are held that way throughout interrogation lasting many hours or days, except for short meal breaks and even shorter bathroom ones. Protracted sitting alone with no possibility of shifting positions, standing, or stretching is itself extremely uncomfortable. Being painfully shackled makes it much worse, and any attempt to slightly adjust the hands results in further tightening of the cuffs.

As explained above, paresthesia often results that includes loss of feeling, weakness, and pain in the back, arms, wrists, shoulders and neck - the entire upper body. Chest muscles are also strained, breathing impeded, and long-term neurological damage is common.

The Scale of Cuffing Detainees with Their Hands Behind Their Back

PACTI affidavits show it's widespread during all interrogations, usually throughout the procedure. A few testimonies describe the practice:

A.B, aged 16 and a half, said his hands were cuffed behind his back and attached to the chair's seat. His testimony shows that even minors are subjected to the same harsh treatment as adults. At one point during the process, A.B. broke down and cried.

Samar Hasan Sus said:

"When the interrogation began, I was cuffed with my hands behind the back of the chair I was sitting on. The handcuffs were attached to the bottom of the seat of the chair and I could not move my hands. The handcuffs were made of metal." He complained to an attorney about forearm, leg and back pain. PACTI submitted a complaint on his behalf to no avail.

Dr. Ghasan Sharif Muhammed Khaled said he was cuffed and not allowed to change position. He said he was subjected to intensive interrogation for eight days, up to 22 hours a day, excluding Saturday and Sunday. Throughout, he was painfully shackled with only rare breaks of about 10 minutes. As a result, he experienced severe pain in his tailbone, back, neck, palms, and knees. He also sustained internal bruising and his knees swelled. PACTI again complained, was told the case was closed, and no corroboration was found for Dr. Khaled's complaints.

Numerous other cases were much the same, and PACTI got no substantive responses to its complaints. They also learned that the only time interrogators unfastened the restraints was when detainees said they wanted to confess. Otherwise, painful shackling continued, causing permanent damage and humiliation as well.

"High Handcuffing" in the Interrogation Room

PACTI describes it as "any type of handcuffing in which the detainees' hands are above the level of their wrists, including cuffing of the forearms or arms." It's extremely painful, can cause physical injury, and if maintained for extended periods very often permanent disability.

Detainee Jalal Khaled Momammed Sawafta describes it in his affidavit:

He was cuffed with a large metal bracelet. "They cuffed my hands in the middle of the forearm (between the wrist and the elbow). Each of two interrogators pressed on the bracelet of the handcuff on my arm - they both pressed together. It was terribly painful. Of course, these handcuffs were in addition to the regular handcuffs that were on my hands all the time, so I had two pairs of handcuffs fastened behind my back. (They) pressed on my arms hard. I cried out but it didn't do any good."

Sawafta's hands are still numb. He can't move his palms well, and they still feel cold all the time even on hot days. He still has marks on his right hand

and wrist and "all kinds of bruises on both hands." Also, his back hurts when sitting for a long time. He's unable to write or hold a cigarette between his fingers, and his hands are swollen and red.

On his behalf, PACTI complained to Attorney General Meni Mazuz. Even after a follow-up memo, no substantive reply was gotten. Other detainees described the same treatment. Some referred to "indescribable" pain, and subsequent medical examination confirmed neurological damage.

After repeated attempts on behalf of detainees, Attorney Naomi Granot, Inspector of Interrogee Complaints, closed the issue "on the grounds that the findings of the mechanism for examining complaints by interrogees did not warrant legal, disciplinary, or other action against any of the GSS interrogators."

From the clear evidence it got, PACTI concluded that detainee rights were "gravely" violated and that no redress would be forthcoming. Nonetheless, an appeal to the prime minister was made, including demands to prohibit painfully shackling, restrict the method and frequency of less or non-painful restraints, and assure future procedures only prevent detainees from harming interrogators or escaping. PACTI wants new rules, guidelines, and criteria in writing that comply with international and Israeli law.

Response from the Prime Minister's Office

In January 2008, the Office of the Military Secretary to the Prime Minister head, Major Shalom Ginzburg, replied:

"It has been decided to alleviate the condition of interrogators by lengthening the chain in such a manner that the interrogee will be able to place his hands by the side of his body in a more comfortable manner, without this impairing the security of the interrogators or increasing the risk that the detainee will escape from custody."

The "high handcuffing" issue wasn't addressed, nor was PACTI's demand for clear cuffing procedures. Nothing fundamentally changed as repeated detainee complaints were received. In response, PACTI contacted the internal security minister "to ensure immediate compliance with the decision of the Prime Minister's Office on this matter."

In May 2008, Col. (Ret.) Yuval Rivlin from the Office of the Comptroller of the Ministry of Internal Security (Public Complaints Office) replied stating:

"our examination with the Israel Police has shown that interrogees are not handcuffed during their interrogation. The Israel Prison Service informs us that the interrogation facilities are not under the responsibility of the IPS."

In December 2008, PACTI again wrote the prime minister asking him to immediately prohibit painful cuffing, including "high handcuffing" and to establish firm procedures to be followed during interrogations.

In February 2009, Ayelet Moshe from the Public Affairs Department in the Prime Minister's Office stonewalled by repeating earlier responses that produced no substantive changes.

Painful Handcuffing Continues

Detainee testimonies reveal it:

Mu'ataz Suleiman Mohammed Qawasmeh described how his hands were painfully cuffed behind his back with metal cuffs connected by a 40 centimeter long chain fixed to the back of the chair. While in this position, he was intensively interrogated from 10 - 22 hours a day. As a result, he suffers spinal and shoulder pain.

For about 12 hours a day, Ahmad Samir Hassan Isma'il was cuffed the same way for nearly five days. As a result, he has lower back pain and paresthesia in both palms. Others now experience various upper body pain in their shoulders, neck, hands, arms, and elbows. They also suffer from swollen red hands, paresthesia, and leg pain for those whose legs were shackled.

Alaa Nasser Dib Salem revealed more - painful hands and feet shackling to a concrete bed in solitary confinement for two days without interrogation. After six hours, he experienced paresthesia throughout his body. He was also denied access to the bathroom and forced to urinate in his clothes. When he complained, two men in civilian clothes tortured him by painfully pressing on his cuffs, cursing him, and threatening to torture his family. Salem was later beaten on all parts of his body with a nightstick and lost consciousness. When revived, he was shaking.

PACTI concluded that "The behavior of the interrogators in these cases and in other similar cases....indicates the use of handcuffing as a form of torture in order to extract information unlawfully" with interrogators often told anything to stop the pain.

Non-Handcuffing of Detainees During Police Interrogations

After GSS interrogations, detainees are questioned by police, or at times interrogations are done alternately for different purposes. GSS wants information to protect state security while police need it for subsequent prosecutions. During their interrogations, cuffing isn't used, a clear sign that GSS does it solely to inflict pain.

PACTI concludes that GSS interrogators use "systematic handcuffing (for) extraneous motives....far removed from the need to 'protect the safety of the interrogators' or to 'prevent escape from custody.'" Painful cuffing is used solely to torture, abuse, and inflict permanent impairment. "This behavior is inconsistent with the declared objectives and those set in (international and Israeli) law...."

Shackling Sick Detainees and Prisoners During Medical Treatment

One case involved a shackled young man who was unconscious after Israelis lynched him. Police refused to unfasten his handcuffs in the hospital even though they impeded treatment. Another case involved a hospitalized woman shackled on her way for major surgery, then again painfully after completion.

After being shot, Mohammed Ashkar was hospitalized unconscious and placed in intensive care with a ventilator attached to his mouth. Yet his hands were cuffed to the bed, and his legs cuffed together. At all times, four guards watched him. Ashkar subsequently died from his wounds, still painfully shackled. PACTI called his case "an appalling example of inhumanity" and a shocking breach of medical ethics for hospital staff to permit this.

The December 1982 UN Declaration on the Principles of Medical Ethics clearly states that:

-- "Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained."

The Declaration also prohibits actively or passively participating in "torture or other cruel, inhuman or degrading treatment or punishment (and) assist(ing) in the interrogation of prisoners or detainees in a manner that may adversely affect (their) physical or mental health or condition...."

In response to PACTI's complaint about Ashkar's treatment, IPS Attorney Tal Argaman on prisoners' affairs said his shackling properly complied with "confidential" procedures he wasn't at liberty to disclose. PACTI nonetheless submitted a request in accordance with the Freedom of Information Law, 5758-1998, but was denied on grounds of confidentiality.

At a subsequent meeting (attended by Physicians for Human Rights representatives) with police, the IPS, Deputy Attorney general (Criminal), Ministry of Internal Security and Ministry of Health, PACTI learned that "IPS security prisoners are considered dangerous and are automatically shackled" while hospitalized, even if on life support. The meeting ended inconclusively.

On July 31, 2008, another meeting was held with the same attendees as earlier. As a result, the IPS published IPS Commission Order No. 04.15.01 concerning "the shackling of a prisoner in a public place." For the first time, it distinguished between levels of danger for prisoners and detainees as follows:

-- those classified "level A" include all held for security reasons to be shackled as authorities see fit;

-- "level B" detainees may not be shackled, "subject to individual examination;"

-- for minors, the handicapped, disabled, or sick, shackling should be avoided, but isn't prohibited if grounds are documented in writing;

-- during court proceedings, cuffing should be avoided, "subject to individual examination;"

-- for hospitalized detainees, authorities should refrain from shackling unless sufficient grounds are presented; however, this doesn't apply to "level A" detainees who'll be shackled at all times; this means that anyone may be so classified and painfully restrained.

PACTI concluded that the new order didn't alter "the default practice of shackling." It continues unabated.

Shackling from the Perspective of International Law

International law is clear and unequivocal. Torture amounting to cruel, inhuman, and/or humiliating treatment is prohibited at all times, under all circumstances, with no exceptions ever allowed, including in times of war or imminent danger. This prohibition is a rare example of a legal principle, accepted as customary law that's binding on all countries worldwide. Neither Israel or any other nation may violate it no matter what conditions exist.

In addition, accepted principles for detainees and prisoners were established in a non-binding July 1, 1957 UN resolution concerning Standard Minimum Rules for the Treatment of Prisoners. They were adopted in 1955 by the First UN Congress on the Prevention of Crime and Treatment of Offenders and were approved in 1957.

They reflect accepted norms and standards concerning prisoner treatment, including the prohibition of shackling to inflict punishment under Section 33, but allow it, with restrictions, to prevent escape during transfer, provided:

-- cuffs are removed before detainees appear before a judicial or administrative authority;

-- for medical reasons on instruction of a medical staff member; and

-- on order of the incarceration facility's general manager.

Even when applied, doing it in a painful manner is prohibited, and the Israeli High Court of Justice (HCJ) several times affirmed the standard under the 1988 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment that states:

"All persons under any form of detention or imprisonment shall be treated

in a humane manner and with respect for the inherent dignity of the human person."

Yet the HCJ also legitimized coercive interrogations in three 1996 cases involving plaintiffs Bilbeisi, Hamdan and Mubarak seeking interim injunctions prohibiting abusive GSS treatment, including painful shackling, violent shaking, hooding, playing deafeningly loud music, sleep deprivation, and lengthy detentions. After further deliberation, the HCJ ruled painful shackling illegal, but allowed the other practices, even though Section 277 of Israel's 1977 Penal Law prohibits torture and provides criminal sanctions against its use. It specifically states:

"A public servant who does one of the following is liable to imprisonment for three years:

-- uses or directs the use of force or violence against a person for the purpose of extorting from him or from anyone in whom he is interested a confession of an offense or information relating to an offense; or

-- threatens any person, or directs any person to be threatened, with injury to his person or property or to the person or property in whom he is interested for the purpose of extorting from him a confession of an offense or any information relating to an offense."

In fact, this law applies solely to Jews, so Palestinians are subjected to systematic torture and abuse, including extended periods of injurious painful shackling. In addition, the Penal Law has a giant loophole "necessary defense" provision allowing "psychological and moderate physical pressure" to obtain evidence in criminal proceedings. It also permits coercive interrogations against "hostile (threats or acts of) terrorist activity" and all expressions of Palestinian nationalism.

Then in 1999, the HCJ ruled that coercive force may be used in "ticking time bomb" cases that can be applied to anyone designated a security threat or terrorist. According to Israeli authorities, all expressions of Palestinian nationalism, activism and resistance against lawless oppression is "terrorism," opening the way for Palestinian detainees to be tortured - defined by international law as war crimes that impose criminal liability on perpetrators, their authorizing superiors, and the state itself.

Israel is a serial violator, so far unaccountable for its grave breaches, yet potentially liable for its actions as well as individuals at all security and political levels engaged in state-sponsored policies that willfully disregard binding international laws.

Under the well-established principle of "universal jurisdiction," any nation may investigate and prosecute foreign nationals for crimes against humanity and war, including torture, cruel and abusive treatment of detainees. In April 1961, Israel applied it against Adolph Eichmann, and so has America against figures like Panama's Manuel Noriega and Liberia's Charles

(Chuckie) Taylor. It may only be a matter of time until the "law of averages" catches up with Israeli war criminals. For their victims, it can't come a moment too soon.

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