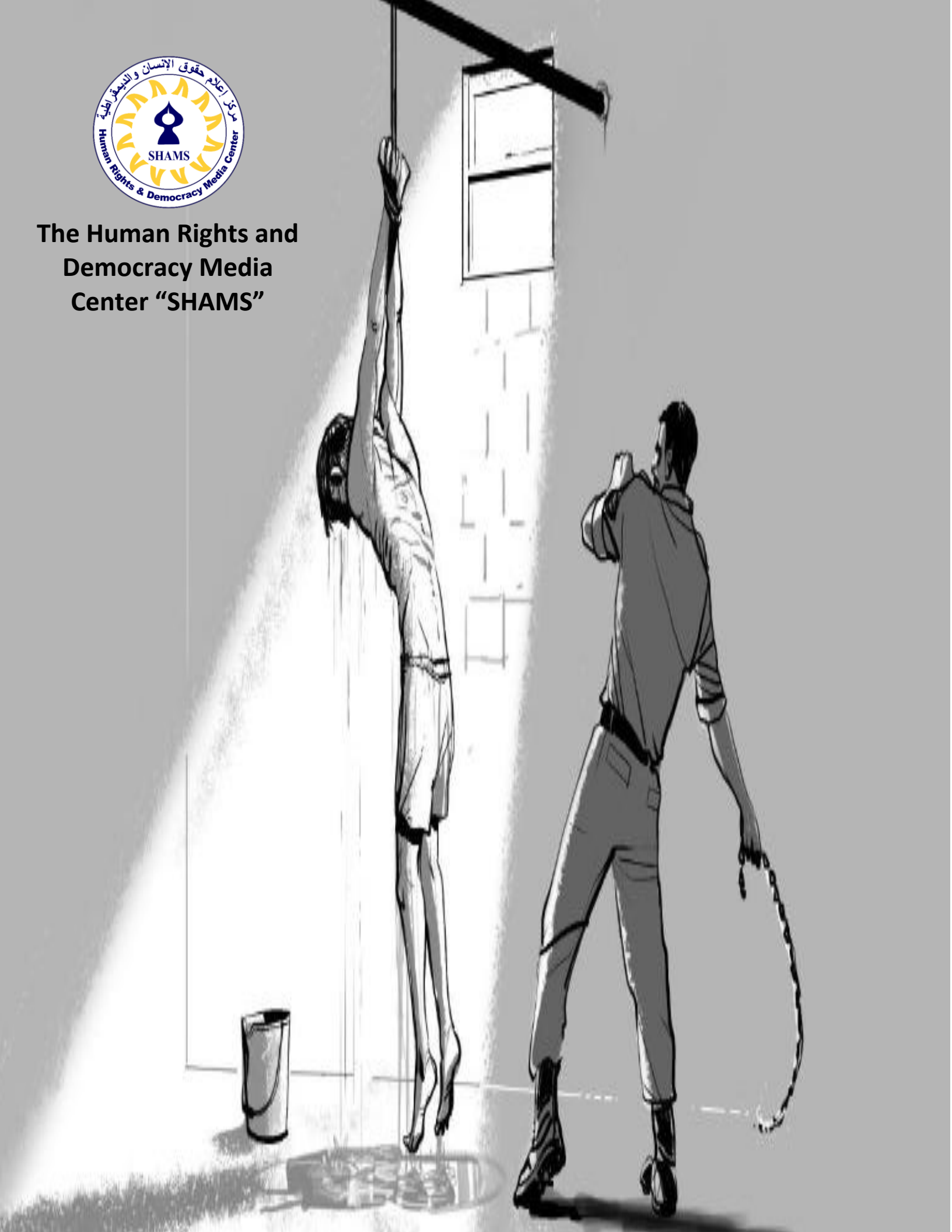




**The Human Rights and  
Democracy Media  
Center “SHAMS”**





مركز إعلام حقوق الإنسان والديمقراطية «شمس»  
Human Rights & Democracy Media Center «SHAMS»

The Consultative Member of the Economic and Social Council of the United Nations (ECOSOC)  
The Observer Member of the Arab Standing Committee on Human Rights – the League of Arab States

Ramallah, Palestine. 26 June 2020

## **The systematic torture of Palestinian detainees in the Israeli in occupation prisons**

The crime of torture is not subject to the statute of limitations

**A special report on the International Day in  
Support of Victims of Torture**

**Dear colleagues,**

**Greetings.**

The Human Rights and Democracy Media Center “**SHAMS**”, the Consultative Member of the Economic and Social Council of the United Nations (ECOSOC) in the occupied Palestinian territories, issue this special report on the International Day in Support of Victims of Torture, endorsed by the General Assembly in its resolution 56/146, considering 26 June of each year as an International Day in Support of Victims of Torture. The report entitled “**The systematic torture of Palestinian detainees in the Israeli in occupation prisons: the crime of torture is not subject to the statute of limitations**”, highlights the legality of torture practiced by the Israeli government, the decision of the Supreme Court Of Justice of Israel in this regard, and the systematic torture crimes of Palestinian detainees in Israeli prisons and detention centers. The report also reviews the matter of torture in human rights narratives, methods of torture used against Palestinian detainees, the legal framework for the offence of torture in International Law, the policy of impunity, and provides a range of recommendations.

## Introduction

Despite the fact that securing freedoms for individuals is fundamental, the deprivation of it should be applied only under exception within a narrow and specific scope and to meet a societal necessity in accordance with the national laws that are produced by the social contract between rulers and the ruled, as per international laws, and that peoples have their guaranteed right to independence, sovereignty, freedom, and self-determination. And the right to confront colonialism in all forms and means under the framework of international law and the human rights system, which ensured the private freedom of individuals and the collective peoples' freedoms. And that prisons and detention centers should not be employed to violate human rights and abuse human dignity, and should remain controlled, in addition to having legitimate reasons for detention. It is worth noting that the Third Geneva Convention of August 12, 1949, guaranteed the rights for prisoners of war.

“Interrogation of persons suspected of “terrorist” activity would not be successful without the exertion of pressure, to break down their will, obtain confessions, and heighten their fears from their organization if they release information”.

(Unofficial translation)

Paragraph 1 of the Israeli Landau

Commission's report

30 October, 1987

### **Under the aegis of law: "Israel" is the only State in the world that legalizes torture**

Colonial states, including "Israel", have consistently established prisons, and perpetuated the method of torture against colonized peoples in an attempt to subjugate their peoples and silence them from challenging their illegitimate powers that pillage their resources, plunder their wealth, and obscure their national identity. The inescapable reality is that Israel, as the colonial state, is the only state in the world that has dared to defy the established human rights system by the legalization of torture. On November 8, 1987, the Israeli Knesset approved the recommendations contained in the report of the Landau Committee formed by the Israeli government to find a way out and escape from the growing criticism of the interrogation methods used by the Shin Bet intelligence service towards the Palestinian detainees. The committee was known as the person who chaired it "Moshe Landau", an Israeli judge, who was the President of the Supreme Court of Israel. And on October 30, 1987, a part of its report was published while kept the other part was kept confidential. The published part created the "legal" cover for the dilemma that the Shin Bet suffered in exerting the physical and psychological "pressure" against detainees suspected of committing "terrorist" activities. On that basis, the committee authorized the Israeli officers and interrogators to use and legalize torture, in a very clear assertion of an integrated colonial system.

### **The policy of impunity: "Israel" fails to abide by the law**

In October 1991, "Israel" ratified the Convention against Torture. Despite all these international and human rights instruments, "Israel" continues to consider itself as an exceptional case permitted to violate the law for its interests and to establish its authority and control. The violence inherent in the essence of Israeli policy does isn't represented only in the practices of individuals, the practices of those in power and charged with law enforcement, the prevalent right-wing culture, or in structural frameworks, but also in the legalization of torture by the Israeli parliament on October 8, 1987. In 1996 the Supreme Court of Justice and the Ministerial Committee of Intelligence Affairs gave their decision, by which they give the intelligence service a green light to use torture.

In 1999, the Supreme Court of Israel issued Resolution No. (5100/94), which allowed the exertion of "special pressure" means in the event of a "ticking bomb" scenario in which interrogators believe that suspected detainees are hiding information that may prevent a serious security threat, according to Article (34/1) of the Israeli Penal Code of 1972. A few years later, in 2018, the Supreme Court expanded the "ticking bomb" scenario to include situations that do not pose an imminent security threat. On October 7, 2019, three Supreme Court judges, acknowledged that the order on preventing access to a lawyer, issued against the Palestinian detainee Samer Arbid, who was interrogated by the intelligence services by the exertion of "special methods", after which he was taken to the hospital and fell into a coma, shall be maintained.

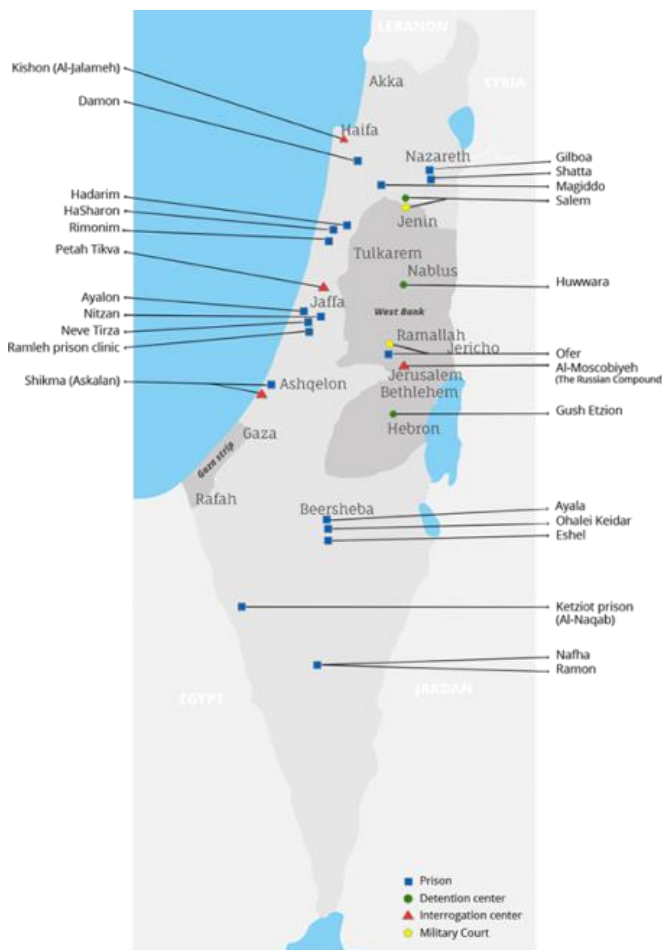
The policy of impunity that "Israel" continues to practice by refraining from placing any effective accountability mechanisms for crimes of torture, ill-treatment, degrading and inhuman treatment threatens to extend the practice of systematic torture and the production of further methods, as complaints filed by the local and international human rights organizations are not handled with a minimum degree of Consideration. Many of those who had been tortured did not survive to see what happened to them, and those who survived came out with psychological trauma, physical pain, permanent disabilities, or with all of these consequences. On the International Day in Support of Victims of Torture, the world shall assume the responsibility for taking serious actions, instead of waiting for the upcoming International Day to expand the list of torture victims in the occupied Palestinian territory or add other names to it.

**Palestinian detainees in the Israeli prisons: (223) Palestinians were martyred inside Israeli prisons owing to torture or medical negligence**

Palestinian detainees in Israeli occupation prisons continue to be subjected to systematic crimes of torture resulting from a structural, legislative, practices, and cultural violence policy pursued by the occupying Power against them. There are (4600) detainees of which (39) are female detainees, (170) children, and (700) sick detainees, (373) administrative detainees, (7) former members of the Palestinian Legislative Council, and the number is projected to grow. They are also subjected to all violations of international law and human rights law, particularly the Geneva Conventions Relative to the Treatment of Prisoners of War. The number of Palestinian detainees who were martyred in Israeli prisons as a result of torture or medical negligence totaled (223), of which (73) were detainees killed as a result of torture. The last victim of severe psychological and physical torture was "Arafat Jaradat" from Sa'ir in the Hebron Governorate, who had been martyred in Megiddo prison on 23 February 2013. Whereas the last victim of medical negligence is Nour Rashad Al-Barghouthi, from the village of Aboud, in Ramallah governorate, who had been martyred in the Negev prison on 21 April 2020. According to the Commission of Detainees and Ex-detainees, more than (700,000) Palestinians have entered Israeli prisons since 1967, about 30% of the population of the Occupied Palestinian Territory.

**Israeli prisons and detention centers: torture spider diagram**

The Palestinian prisoners and detainees are held in around (22) prisons and detention centers spread over the whole of the Palestinian Territory, the most prominent of which are: Nafha, Beersheba, Ofer, Ashkelon, Kfar Yona, Shatta, Gilboa, Atlit, Damon, Al-Moscobiye, Al-Sarafand, Ramleh, Ayalon, Nitzan, Neve Tirza, Erez, Hadarim, HaSharon, Telmond, Ohalei Keidar, Kishon (AL-jalameh), Givon, Huwwara, Magiddo, Secret Prison (Facility 1391), Gush Etzion detention center, Kidumim, Erez, and Beit El. <sup>1</sup>



<sup>1</sup> <https://www.addameer.org/prisons-and-detention-centers>.



### **Torture: definition and criteria**

Article (1) of the Convention against Torture<sup>2</sup> defines the term (torture) as “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”.

As per Mr. Manfred Nowak, the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>3</sup>, There definition contains four essential criteria:

- 1– Infliction of severe physical or mental pain or suffering, only conduct causing severe pain or suffering, whether physical or mental, amounts to torture ;
- 2– The involvement of a public official, the actor;
- 3– With intention; and
- 4– For a specific purpose, such as extracting a confession or information.

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<sup>2</sup> It is a major reference in the human rights system, and aims to prevent and fight against torture worldwide. It was adopted by the United Nations High Commissioner on December 10, 1984 and entered into force on June 26, 1987, the day that was adopted as the International Day in Support of Victims of Torture. In 2002 an additional new conventions was signed, entitled the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and it entered into force in 2006.

<sup>3</sup> The United Nations Commission on Human Rights, in resolution 1985/33, decided to appoint an expert, a special rapporteur, to examine questions relevant to torture. He works on submitting an annual report on torture to the Commission on Human Rights, and his mandate covers all countries, irrespective of whether a State has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

## Methods of torture used against the Palestinian detainees: Crime Pattern

- 1. Shabah (stress positions):** forcing detainees to sit in extremely uncomfortable positions for long periods of time, which causes him/her severe pain in the joints and spine and sometimes paralysis in some parts of the body. Shabah or stress position included sitting on a chair while handcuffed to the back, where the hands were positioned on a table behind the detainee's chair, and placing a foul-smelling sack on the head, in the dungeon, interrogation room, hallways, or toilets. Shabah or stress position is likely to last two hours and may be up to three months. Stress positions include a number of positions such as the pulley position<sup>4</sup>, the normal position<sup>5</sup>, the upside-down position<sup>6</sup>, shabah by glass<sup>7</sup>, the upward window position<sup>8</sup>, squatting position<sup>9</sup>, and banana position<sup>10</sup>.
- 2. Harsh beatings:** intelligence officers and the prison guards used extreme methods of beatings against the detainees using their hands, legs, knees, fingers, electric wires, and "Falaqa"<sup>11</sup>. The officers hit, slapped, punched, poked (using their fingers), and kicked the detainees. These methods resulted in severe and life-threatening injuries that included

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<sup>4</sup> Having his/her hands and legs tied back with a rope and the detainee is raised up with a pulley, making his head unfortunately down, caning and beating him/her with a baton, it is possible that the detainee will faint during it, and in case this happens, he/she will be lowered for a while and then repeat the process again.

<sup>5</sup> This stress position included standing on their toes while their hands were shackled above their heads to a wall, with hands and one foot above, in some cases the detainee is forced to open the legs to the maximum, and forced to carry a relatively heavyweight using one hand or both.

<sup>6</sup> This position involved the detainee lying on the ground with his/her hands chained to each other with iron cuffs and positioned behind his/her back.

<sup>7</sup> Placing the detainee on two glass cups with hands raised up.

<sup>8</sup> The detainee is handcuffed to an upper window and the body is raised until the toes touching the ground, making the detainee's body bowed forward, pressing the spine, and increasing the pressure of the claws on the hands.

<sup>9</sup> Squatting or pressing the toes, by forcing the detainee to sit in the frog position, resting on his/her toes and putting his/her hands forward.

<sup>10</sup> The detainee's legs cuffed to the lower part of a chair (the back of the chair is positioned to the side) and his hands cuffed to each other and pressured by the interrogators to the lower part of the chair. This position would mean that the detainee's body would form an arch. This causes enormous pressure on the spine.

<sup>11</sup> The detainees are beaten on the soles of the raised feet after placing and stretching him/her to the ground. In some cases, the interrogator sits over the feet in conjunction with beating them, or fixes the detainee's feet to a chair rest, and beats him/her continuously. The number of beatings totals more than a hundred strikes.

broken ribs, inability to walk, brutal bruises, swelling marks on the skin, ulcer wounds. Several of those detainees appeared in their court sessions with marks on their bodies, expressing severe pain, or in some cases arrived on wheelchairs.

3. **Putting the freezing or scalding water with capricious air currents on the detainee:** the detainees are subjected in succession to freezing or scalding water through high pumping hoses, and simultaneously they are exposed to hot or cold air currents, as they are usually cold water in winter and hot water in summer, which causes diseases such as influenza and infections.
4. **Sleep deprivation:** the prison guards and interrogators intentionally disturb the detainees either by loud and eerie sounds made by, the voices of other detainees being harshly beaten or the sound of knocking on their cell doors. In some cases, sleep deprivation ranged from 30 to 60 continuous hours, where the detainee would not be sent to sleep at all during these hours and would be woken up if he/she falls asleep during the interrogation. Some detainees were also splashed with water.
5. **Strangulation, waterboarding, and burning of the skin:** The detainee is subjected to attempts to strangulation by stuffing a rag down his/her mouth to prevent him from making sounds while being beaten, or by violently wrapping the arm around the neck. Waterboarding is also exercised by forcibly pouring a considerable amount of water into the detainee's mouth or submerging his/her head with water, making him/her feels that he/she is almost drowned and dead. In some cases, the skin is burned, either through "lighters" or by dropping and dissolving "plastic hoses"<sup>12</sup> or by placing paper rolls between their toes and setting them on fire and putting cigarette ends in their bodies.

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<sup>12</sup> According to the testimony of the detainee child Muhammad Rizq Jabr Darraj (17) years old, from Ramallah: "The occupation soldiers stormed our house while I was sleeping, someone yelled at me and pushed me from the shoulder with the gun to wake up, they told me that I'm under arrest, and didn't allow me to change or to use the bathroom. They tied me up by plastic straps, blindfolded me, put me in the military jeep, they sent me to an army camp and they used strip search. In the morning I was transferred to the Asyoun camp and I was interrogated for long hours until the evening. Following the closure of the investigation, the soldier didn't want to untie me by cutting the straps but rather fired it up to melt and burn my hand, causing severe pain and burns. And then they transferred me to Ofer Prison for a period of (40) day, and from there to Magiddo Prison, after they used strip search again, November, 2015. (Unofficial translation)

6. **Violent shaking:** interrogators hold the detainee and shake him/her regularly, fast, and very strongly through grabbing clothes, which shakes the neck, chest, and shoulders and causes the detainee to faint due to the concussion.
7. **Crucifying the detainee on the head:** In this method of torture, the detainee is forced to stand on his head for prolonged periods of time, with his head on the ground and his legs up, with beatings on the legs, thighs and abdomen with batons and bats.
8. **Electric shock:** either by direct electrocution of the detainee or by connecting phone wires to the detainee's chest and making phone calls that cause current to come into the body, which creates severe pain.
9. **The use of family members (emotional blackmailing):** this focus on threats against the detainees' family members, and loved ones. As part of the systematic collective punishment policy used by the occupation, where family members, particularly women, are arrested or summoned to pressure the detainee, or threatening him/her to blow up the family's home and harm the family. The detainee is put in a place where he/she sees the family member handcuffed and brought in the interrogation room for questioning, and interrogators made the detainees assume that their relatives will be tortured unless he/she provides information. Interrogators exploit the conservative nature of Palestinian society through emotional blackmailing of the detainee by female relatives, such as wife, a girl, or mothers, etc. In other cases, the detainee is threatened with death, concealment in secret locations, or sexual assault.
10. **Solitary confinement:** By holding the detainee in a cell ranges in width from 1–2 meters and 2–3 meters in length, which is tightly closed. Or in a dungeon made of cement or bricks, it is called the (freezer) or (treasury), it is about 60 cm wide, and 80 cm long, and its height is equal to the height of an average person. The detainee cannot sit there and if he tries to do so, water is poured into him/her from a lower hole. The duration of solitary confinement ranges between days to months and sometimes years.
11. **Denial of visitation:** The detainee is being deprived of visitation by his family, relatives, or lawyer for long periods of time in order to put pressure on him/her and to make him/her feel isolated from the outside world. A policy that is being widely followed against the Palestinian detainees.

### **The international legal framework criminalizing torture of Palestinian detainees**

Article (5) of the Universal Declaration of Human Rights provides: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Article (7) of the International Covenant on Civil and Political Rights Provides: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation”. The Covenant establishes restrictions and procedures that states must follow in accordance with Article (40), which provides: “1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights ... The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

In 1975, the United Nations General Assembly adopted a resolution No. 3452 (xxx) which includes protection for all persons from torture and other cruel, inhuman, or degrading treatment or punishment. On January 10, 1984, the General Assembly approved the International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Article (4) of which stipulates: “A State Party is required to ensure that all acts of torture are offences under their criminal law, including attempts to commit torture and acts by any person which constitutes complicity or participation in torture”. Each State party to the convention makes these crimes punishable by appropriate penalties that take into account their grave nature. Most importantly, the Convention against Torture prohibited the exercise of torture by states, under any exceptional circumstances, whether it was in a state of war, a threat of war, or compelling anti-terrorist circumstances.

On 12 December 1997, the General Assembly issued resolution 56/146, to consider 26 January of each year as the International Day in Support of Victims of Torture, and urge countries to take all necessary measures to put into effect the Convention against Torture. In 2002, the Committee of Ministers of the Council of Europe adopted guidelines on human rights,

and the fight against terrorism, which stipulates: “The use of torture or cruel treatment and inhuman or degrading punishments is absolutely prohibited, in all circumstances, especially during the arrest, interrogation, and detention of a person suspected of terrorist activities, regardless of the nature of the acts suspected of or having been convicted of”. In the same year, an additional new convention was signed, entitled the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force in 2006.

In addition, the Third Geneva Convention on Prisoners of 1949, which applies to those captured during combat operations and the Fourth Geneva Convention Relative to the Protection of Civilians during Armed Conflict or Occupation, which applies to most Palestinian civilian detainees.

**Recommendations of “SHAMS” Center:**

“SHAMS” Center expresses its condemnation of “Israel” the occupying power’s continuous disregard for the international law and binding human rights conventions and covenants, including the Convention against Torture and the Third and Fourth Geneva Conventions, and holds the occupying state accountable for the damage caused to Palestinian detainees, due to the systematic torture they are exposed to. The center recommends the following:

1. Inviting the international community to use levers of pressure against the occupying State to criminalize and stop torture crimes against Palestinian detainees, adhere to international law and the human rights system, prosecute the perpetrators of the torture crime and expand the scope of responsibility for it to include everyone who contributes in any way to it.
2. Underlying the need for the UN Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, to assume their effective roles in highlighting the systematic torture crimes practiced against Palestinian detainees, and to raise the issue most widely in the United Nations.

3. Following up on Palestinian detainees and ex-detainees in the Israeli prisons in all areas, and providing support & care to them by the official and civil authorities, mainly at the psychological and health levels, to help them continue to live well, being victims of torture.
4. Revitalizing the role of the Commission of Detainees and Ex-Detainees Affairs, in order to play a greater role in providing care to prisoners and detainees and responding to their needs, as the official framework in charge of that.
5. Strengthening the Palestinian diplomacy to raise the issue of Palestinian detainees in Israeli prisons in international forums, build international support & advocacy towards the preservation of their human rights, and stop systematic torture crimes against them.
6. Providing psychological and social support to ex-detainees and their families.
7. Calling on international & national civil society organizations to play their roles in the field of monitoring and documentation, make lobbying and advocacy efforts, and take advantage of membership in the coalitions, with respect to torture offences of Palestinian detainees.
8. Requesting the International Committee of the Red Cross to assume its legal and humanitarian duties & responsibilities and to play its role efficiently in communicating with Palestinian detainees, overseeing and monitoring their conditions in prisons and informing their families of their conditions.