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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM
OF DETENTION OR IMPRISONMENT, IN PARTICULAR: TORTURE AND OTHER
CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant
to Commission on Human Rights resolution 1995/37

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Introduction

1. The mandate of the Special Rapporteur on torture, assigned since April 1993 to Mr. Nigel S. Rodley (United Kingdom), was renewed for three more years by the Commission in its resolution 1995/37 B. In conformity with this resolution the Special Rapporteur hereby presents his third report to the Commission. Chapter I deals with a number of aspects pertaining to the mandate and methods of work. Chapter II consists mainly of a review of the information transmitted by the Special Rapporteur to Governments, as well as the replies received, from 20 December 1994 to 15 December 1995. Chapter III contains conclusions and recommendations.

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II. INFORMATION REVIEWED BY THE SPECIAL RAPPORTEUR
WITH RESPECT TO VARIOUS COUNTRIES

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Israel

88. The Special Rapporteur advised the Government that he had continued to receive information according to which Palestinians undergoing interrogation by the General Security Service (GSS or Shin Bet) are often subjected to torture or ill-treatment. The methods of torture reported include: beatings all over the body, sometimes with cables; hooding, sometimes with dirty and wet sacks which interfere with respiration; prolonged standing or sitting in painful and contorted positions (shabeh); sleep deprivation; confinement in closet shaped rooms (kahzana); food deprivation; threats of disablement; and continuous subjection to loud music.

89. Israeli Criminal Procedure Law permits persons charged with State security offences to be held incommunicado for up to 30 days, the first 15 of which may be kept secret. Such periods of incommunicado detention create conditions which facilitate the practice of torture. Military orders applying to the occupied territories were said to permit detention without judicial review for up to 11 days and denial of access to a lawyer for a total of 90 days on security grounds.

90. The Landau Commission guidelines sanctioning "the exertion of a moderate measure of physical pressure" were allegedly applied in a way so as to allow for torture and ill-treatment. Because the guidelines are secret, it was impossible to assess the extent to which the above-mentioned practices were consistent with or a departure from them. The ministerial committee which meets monthly to review the guidelines was said to have allowed for the increased use of physical pressure in the aftermath of the October 1994 suicide bombing in Tel Aviv.

91. The Special Rapporteur also transmitted to the Government seven individual cases and an urgent appeal on behalf of one person, to which the Government provided a reply. In addition, he transmitted an urgent appeal in conjunction with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman of the Working Group on Arbitrary Detention, concerning the situation of prisoners held at the Al-Khyam prison, in the Marjoun region of south Lebanon.

92. Finally, the Special Rapporteur made an appeal regarding the content of proposed legislation which reportedly was due to come before the Israeli Parliament

(Knesset), the purpose of which was to incorporate the Convention against Torture in the domestic law of Israel. The Special Rapporteur expressed concern that an unofficial translation of the text of the proposed legislation, which defined torture as "severe pain or suffering, whether physical or mental, except for pain or suffering inherent in interrogation procedures or punishment according to law", could have the effect of legalizing practices that were irreconcilable with the purposes of the Convention (to prohibit, prevent and punish both the crime of torture and other cruel, inhuman or degrading treatment or punishment). The Government replied that the above-cited text was only a proposal for a draft and that it would have to go through various stages of the legislative process before it could be tabled in the Knesset in the form of a bill. Internal governmental discussions on the proposal would address the points raised by the Special Rapporteur.

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