

Press Release

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COMMITTEE AGAINST TORTURE TAKES UP REPORT OF ISRAEL Government Delegation Reports that a Court Has Banned Controversial Interrogation Practices; Committee Members Probe Allegations of Maltreatment

The Committee against Torture began its consideration this morning of a third periodic report of Israel, hearing from a Government delegation that the Israeli Supreme Court, in 1999, had prohibited controversial interrogation practices formerly used by its General Security Service.

The report was introduced by Yaakov Levy, Ambassador and Permanent Representative of Israel to the United Nations Office at Geneva, who in addition to summarizing the Supreme Court ruling said that terrorist attacks against the country had intensified, leaving the Government, which was committed to protecting the basic human rights 'of even the most dangerous and brutal of criminals', to fight 'with one hand tied behind its back'.

Committee members asked this morning, among other things, if the Supreme Court decision left certain 'gaps' under which other modes of interrogation, different from those which were banned, might be applied to detainees to the extent that they became torture, based on perceived 'necessity' in a certain situation; and if non-governmental organization (NGO) reports that some forceful interrogation practices continued, including sleep deprivation, slapping, and keeping detainees in the 'frog' position, were true.

The Israeli delegation will respond to the questions on Wednesday, 21 November, in the afternoon.

Other members of the national delegation of Israel were Tuvia Israeli, Deputy Permanent Representative of the Israeli Mission in Geneva; Yehuda Shaffer, Senior Deputy to the State Attorney of the Ministry of Justice; and Ady Schonmann, International Human Rights Law Officer of the Office of the Legal Advisor of the Ministry of Foreign Affairs.

Israel, as one of the 126 States parties to the Convention against Torture, is required to present periodic summations to the Committee of national efforts to put the Convention's provisions into effect. Government delegations generally appear before the Committee during the consideration of such reports to answer questions and provide additional information.

The Committee will reconvene at 3 p.m. to continue its review of an initial report of Zambia.

Third periodic report of Israel

The report ([CAT/C/54/Add.1](#)) contains chapters on 'information on new measures and developments relating to the implementation of the Convention'; and 'compliance with the Committee's conclusions and recommendations'.

Chief among new developments, the report notes, was a September 1999 ruling of the Israeli Supreme Court concerning investigation methods used by the Israeli Security Agency brought by petitioners claiming that certain interrogation methods were illegal and constituted torture. The Court did not find that the alleged methods constituted torture and violated the Convention, but held that the General Security Service was henceforth prohibited from using them. The practices include shaking, having a suspect crouch on the tips of his toes for a long time, painful handcuffing, seating in a 'Shabach' position, covering a suspect's head with an opaque sack, playing loud music, or intentionally depriving a suspect of sleep. On the day the Supreme Court decision was announced, the report states, the Security Agency issued a directive to all personnel requiring investigators to adhere strictly to the ruling.

Among responses to the Committee's conclusions and recommendations on Israel's second periodic report, according to the third report, are a unanimous decision of the Israeli Supreme Court that all provisions of the Convention against Torture are part of Israeli law and that any violation of the Convention is a violation of Israeli law; that it is unlikely that Israel in the foreseeable future will withdraw its reservations to article 20 of the Convention or declare in favour of articles 21 and 22; and that there recently has been a drastic reduction in the number of persons held in administrative detention. At present only 11 are being so held for security reasons, and no persons are being held in administrative detention in the occupied territories; the report states. In addition, it contends that the conditions in which such persons are held conform with article 16 of the Convention.

Introduction of report

YAAKOV LEVY, Ambassador and Permanent Representative of Israel to the United Nations Office at Geneva, in an opening statement, said among other things that despite numerous, unique, and pressing difficulties facing the country in its struggle against terrorism, Israel, as a free and open democracy, had chosen to open itself to international scrutiny of its human rights performance and had prohibited the use of force or violence against a person for the purpose of extorting a confession or information relating to an offense. The threat of terrorism, regrettably, had not diminished, and one of the most fundamental human rights was the right of all civilians to be free to live their lives without the continuous fear of terrorist attacks. Israelis did not enjoy this basic right, had been the target of countless indiscriminate attacks, and the most recent spate of violence had claimed the lives of over 200 innocent civilians. Preventing terrorism while ensuring that the basic human rights of even the most dangerous and brutal of criminals were protected, was clearly a demanding and complex task, and Israel often had to fight with one hand tied behind its back.

In 1999 the Israeli Supreme Court had unanimously repealed former Governmental guidelines regarding use of physical means during interrogations which had previously been criticized by the Committee, Mr. Levy said. The Court had stated that the General Security Service had no authority under Israeli law to use physical force in its interrogations. The ruling was given less than 18 hours after two car bombs exploded in two northern cities. Following the ruling, the Attorney General immediately convened a meeting to apply it. At the same time, further restrictions on the use of force had been placed on the conduct of law-enforcement authorities, intensifying Israel's dilemma in confronting mounting terrorist activities.

As the prohibited interrogation techniques were no longer relevant following the Supreme Court decision, Israel did not wish to continue discussion of them with the Committee, Mr. Levy said; and it urged the Committee to acknowledge that careful reading of Article 2 of the Convention clearly suggested that pain and suffering, in themselves, did not necessarily constitute torture. The use of force during interrogation in Israel would be exceptional and prompted only by necessity, in isolated cases, although it had to be noted that any reasonable investigation was likely to cause discomfort and likely sometimes to result in insufficient sleep.

The Committee also had expressed concern that Israel was holding Lebanese detainees as 'bargaining chips', Mr. Levy said; and in April 2000 the Supreme Court had

ruled that the Emergency Powers Act authorized the Minister of Defense to permit administrative detention of any person only if such a detention was necessitated for national security needs. The court declared that continued detention of Lebanese detainees held in Israel did not constitute a threat to national security as such, and could not be authorized. Immediately all Lebanese detainees were released except for those who were terrorists posing an immediate threat to Israel's security. This had occurred despite the fact that in September 2000 three Israeli soldiers and an Israeli citizen were abducted by the Hizbulla and held in captivity, Mr. Levy said. Three of those abducted were presumed to be dead.

Mr. Levy told the Committee that on 24 May 2000 all Israeli troops had withdrawn from South Lebanon, as fully confirmed by the United Nations; and that complaints of maltreatment filed by Palestinian detainees should not be taken at face value -- that a serious examination of such complaints should not rely solely on information provided by Palestinian detainees if one expected to reach accurate conclusions. Examination of any complaint must be done on a case-by-case basis, with no prejudice or biased presumptions.

Discussion

Serving as Rapporteur on the situation in Israel was Committee Expert and Chairman PETER THOMAS BURNS, who termed the report 'admirably focused' and noted that the country was an open democracy, somewhat isolated in its region, and that there was a great flow of information to the Committee as a result from a number of sources. The Committee acknowledged the significance of the Supreme Court decision on interrogations, he said, and lauded the immediate enforcement of the ruling. He agreed with the Israeli Government that what, exactly, amounted to torture had to be defined carefully, and the best way to do so was to look at specific cases. However, the facts of the cases had not always been available to the satisfaction of all parties, including those representing the detainees. Different conclusions hence were reported to the Committee.

Any State that detained an individual had to justify the detention and, if force was applied to the individual, to justify the use of force, Mr. Burns said. The force could not inflict severe pain or suffering. A general statement by the Government that the force 'was not severe', as Israel had contended in the past, was not sufficient. Details were needed to illustrate that the force was not severe.

Mr. Burns asked, among other things, for a summary of other new provisions relating to detention. He asked if the Supreme Court decision left certain 'gaps' under which other modes of interrogation, different from those which had been banned, might be applied to detainees to the extent that they became torture, based on perceived 'necessity' in a certain situation. It did not appear to him that the Supreme Court decision, as worded, banned 'torture', or that it concluded that torture could never be applied, regardless of circumstances. Yet necessity could never, under the Convention, be used to justify torture.

Release of the Lebanese detainees was a major development, Mr. Burns said, yet administrative detention had not been abolished; it still gave administrative authorities the power to hold people incommunicado for up to eight months. He asked to what extent such detainees were allowed access to legal counsel. He also cited non-governmental organization (NGO) reports that some forceful interrogation practices continued, including sleep deprivation, slapping, and keeping detainees in the 'frog' position, and asked if the allegations were true and how, if so, the methods were regulated so that the State could guarantee that they were never 'severe'. He asked how much administrative detention was currently used, and if it was true that one detainee had been held for 12 years. What had this person done, or what threat was he suspected of posing?

Mr. Burns asked how many security agents or police officers had been charged or disciplined for 'stepping over the line' during the last two years during interrogations -- how many prosecutions, convictions, and punishments -- as there were reports of an ironclad impunity for such officials; NGOs contended that complaints never had any result.

The Special Rapporteur against Torture of the Commission on Human Rights had sent an urgent appeal to the Government of Israel about the arrest and incommunicado detention for four and a half years of a Lebanese man, Mr. Burns said; the complaint was that the detainee was deprived continuously of sleep, kept in the frog position, kept naked for days at a time, and beaten. Mr. Burns asked what the detainee, who was still in custody but no longer held incommunicado, was accused or suspected of, and if the allegations of maltreatment were true.

Mr. Burns asked about reports of torture of Lebanese minors in a police station; and about reports that a 16-year-old Palestinian was stripped, kept in cold conditions, doused with cold water, had his head shoved in a toilet bowl, and forced to sign a confession written in Hebrew which he could not understand; and if it was true that this detainee had filed a complaint through the established complaints mechanism without result, since the investigator said sufficient medical evidence had not been provided.

Mr. Burns asked about a reported increase in trafficking in women in Israel, and how the Government was responding; asked how many children were currently held in detention in the country; if child detainees were incarcerated with adults; what the conditions of detention of children were; why a 'child' was someone under age 18 in Israel but someone under 16 in the occupied territories; why the destruction of homes in the occupied territories was not a collective punishment, and why no explanations, investigations, or compensation reportedly followed complaints from those whose homes were destroyed; what the standard presence of doctors during interrogations signified, since the practice raised all sorts of 'red flags'; and if it was the practice for interrogators not to identify themselves to detainees, even if requested to do so -- as that also raised a series of 'red flags'.

Serving as Co-Rapporteur on the report of Israel was Committee Expert ALEXANDER M. YAKOVLEV, who termed the Supreme Court ruling a 'great decision' and said among other things that Israelis were now in a position to resolve two problems simultaneously -- to defeat terrorism and to avoid human rights abuses while doing so. This was the challenge facing much of the world; in a sense all countries were in this together.

Among his questions were if medical officials attending interrogations would, following the Supreme Court ruling, be held liable if torture occurred and they did not report it or serve as witnesses against the interrogators; if interrogators covered their faces during interrogations, making it hard for detainees to complain about and identify them afterward; what the 'reasonable grounds' were under which administrative detention was authorized; to what extent the closure of territories was effective in stopping terrorism, and to what extent such closures caused suffering among innocent people.

Other Committee members also put questions. Among them were if, in an extreme, 'ticking bomb' situation, interrogators could be expected to use torture, regardless of the Convention and the Supreme Court decision; what was the justification for targeted assassinations, and if such acts amounted to extra-judicial executions; if detainees had the right to be examined by doctors of their own choice;

why interrogations were not videotaped to prove that maltreatment did not occur; how often roadblocks hindered access to hospitals for persons who needed urgent treatment; if, as reported, a police officer could order detention of a Palestinian for up to eight days, and such a detention could be extended by a military court for up to three months; if, as reported, a Palestinian detainee could be denied access to legal counsel for up to six months; and if an NGO report was correct in stating that a 10-year-old Palestinian boy had been detained and interrogated, and if so, what the security services hoped to learn from interrogating a 10-year-old boy.

