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Date: September 11, 2014

In your response please note: 78563

To

Advocate Yehuda Shaffer
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شارع أبو عبيده ٤
القدس ٩٧٢٠٠
هاتف. ٦٢٨٣٥٥٥. ٠٢.
فاكس. ٦٢٧٦٣١٧. ٠٢.

Dear Sir,

Re: **Concern that prohibited measures are used against interrogees by ISA interrogators**

mail@hamoked.org.il
www.hamoked.org.il

1. HaMoked: Center for the Defence of the Individual (hereinafter: **HaMoked**) is a human rights organization which handles, *inter alia*, complaints of Palestinian detainees from the West Bank, of interrogation methods used by the Israel Security Agency (ISA).
2. In this context, we receive many testimonies of Palestinian detainees, who underwent ISA interrogations in different detention and interrogation facilities throughout Israel. The diverse testimonies depict a problematic situation, which points at inappropriate phenomena in ISA interrogations, phenomena which if proven to be true, amount to abuse, degrading and inhuman treatment, and even tortures, which are absolutely prohibited by law.
3. Clearly, HaMoked submits individual complaints, whenever the need to do so arises in specific cases, to the ISA Interrogatee Complaints Comptroller. We have acted in this manner over the last several months in a considerable number of cases. However, the individual complaints cannot provide a full description of the general picture which arises from the entire testimonies in our possession. In our opinion, the testimonies, as a whole, depict a problematic situation which should be handled systematically and across the board. It is difficult to take such a systematic and comprehensive approach based solely on specific complaints. Hence our letter to you.

4. The following are several issues, which we believe require the examination and intervention of the bodies supervising the manner by which ISA interrogations are conducted. This is the place to note that the findings are based on many dozens of testimonies of Palestinian interrogees, who were interrogated from September 2013 until May 2014, in the interrogation facility "Shikma" in Ashkelon.
5. **The interrogation chair** – a severe picture arises from the testimonies in our possession concerning the chairs in which ISA interrogees are seated in the various interrogation rooms in "Shikma". Interrogees are seated on interrogation chairs which may be described as "distorted", for many hours. It was reported, *inter alia*, of a five legged chair – with a fifth leg fixed in the center of the chair, in addition to the four "regular" ones. Said fifth leg is longer than the others, which creates a constant feeling of shaking, and causes the interrogee to make a constant physical effort to balance himself.
6. In addition, it was reported of tilted interrogation chairs, some of which are tilted backwards and some of which are tilted forward. Another version which was brought to our attention is an interrogation chair the backrest of which is tilted forward. These chairs cause the interrogee to be in a stress position, namely, a stressful and painful position.
7. The combination of these "special" interrogation chairs, together with the long periods of time during which the interrogees are seated on them, cause the interrogees to suffer sharp pain (mainly in the back and limbs) during the interrogation, and may cause prolonged bodily injury after the termination of the interrogation.
8. We are of the opinion that the interrogation power of the ISA interrogators does not include the authority to seat interrogees on such distorted interrogation chairs. *Prima facie*, no security need of any sort seems to exist, but rather an attempt to inflict a bodily and mental injury on the interrogees, by indirect means. It also seems that the above acts violate the holdings of the Supreme Court in its judgment in H CJ 5100/94 **Public Committee against Tortures in Israel v. Government of Israel**, IsrSC 53(4) 817 (hereinafter: the **committee against tortures** case) (particularly paragraphs 26-27 of the judgment, where a painful position in which the interrogees were held was described, a position which included, *inter alia*, a low interrogation chair).
9. **Prolonged and painful shackling** – the vast majority of the testimonies in our possession include complaints of interrogees of prolonged shackling during long interrogation hours. Indeed, in the **committee against tortures** case it was held that shackling constituted a legitimate security measure. However, it was also held that the shackling should be made in a manner which would not cause excessive pain or unnecessarily humiliate the interrogees.

10. The vast majority of the interrogees reported of having been shackled with both their hands tied behind their back during the entire interrogation session which often lasted almost 24 hours per day, over the course of several consecutive days. Some interrogees also reported that their legs were tied to each other and that they were not allowed to stretch their legs forward, which means that the interrogees were forced to stay with their shackled legs tied to each other underneath the interrogation chair. The combination of shackled hands (which is often painful in and of itself) tied together behind the back, shackled legs tied together underneath the chair, a very lengthy interrogation and the problematic interrogation chair, as described above, causes the interrogee great pain in his limbs, with no apparent operational or security need whatsoever.

11. In the hearing in HCJ 5553/09 **Public Committee against Tortures in Israel v. Prime Minister**, TakSC 2010(2) 1998, the respondents declared before the court that they shackled interrogees only subject to medical opinion, which satisfied the court. However, it seems that the frequent use of shackling, as described above, cannot meet the required standards, according to the court's judgments as well as according to international law.

12. **Shouts, curses and threats used by the interrogators** – indeed, an interrogation cannot/is not meant to be a very pleasant procedure, which occasionally requires the use of tough tones by the interrogators. However, the testimonies in our possession depict a grave picture of ISA interrogators' conduct towards the interrogees in the interrogation rooms.

13. With respect to shouts, it is clear that interrogators cannot be expected not to raise their voices at all. However, some of the testimonies before us describe instances in which the interrogators shouted very loudly, over long periods, virtually into the ears of the interrogees. Loud, lengthy shouts which were directed at one ear only. This conduct attests to an inappropriate, systematic use of shouts as a painful and humiliating interrogation method.

14. The use of curses is also very troublesome. Many testimonies describe frequent use by interrogators of malicious, humiliating curses, directed (mostly) towards the female family members of the interrogees. Most curses have degrading sexual connotations. On occasions, the interrogators even blasphemed the creed of a religious interrogee. The severity of the curses is attested by the fact that in many cases they caused the interrogees to lose their mental balance, leading to outbursts of anger towards the interrogators, which in turn resulted in the taking of more extreme physical measures against them (on shackling interrogees to bed, see below).

15. The interrogators also use threats. We were informed of threats to bring the interrogees to what is known as a "military interrogation"; threats to put the interrogee under a long administrative detention; to separate the interrogee – for an unlimited period – from the external world; threats concerning the detention of family members; threats that failure to collaborate would result in the impingement on the livelihood, health and wellbeing of family members (using the fact that many Palestinians need the goodwill of the Israeli authorities to trade, go abroad, work or study, or exit the West Bank to undergo various medical treatments).
16. All of the above described phenomena attest to the fact that humiliation of interrogees is used as a structured interrogation method. Degrading shouts which violate the dignity of the interrogees beyond the physical suffering they cause. Degrading curses which violate the interrogees' dignity, cynically exploiting the fact that the vast majority of the interrogees are religious people who are especially humiliated by curses of sexual connotation, and which completely destabilize their mental health. Threats by the omnipotent interrogators of the state also destabilize the mental condition of the interrogees and misuse innocent family members, who did not sin, to promote the objective of the interrogation. Said interrogation methods are inappropriate, constitute degrading and inhuman treatment which is prohibited by law, and should be stopped.
17. **Shackling interrogees to bed for long hours** – in a considerable number of testimonies we encounter a particularly severe phenomenon of shackling interrogees to the bed for 24 or 48 hours, continuously. Said offensive and humiliating measure is taken under the pretence of defending the safety of interrogees, who ostensibly "threaten to commit suicide". Moreover, this measure is taken in an inherently inappropriate cooperation of ISA interrogators with medical personnel in the interrogation facility (who confirm that the interrogee "may be tied to the bed"), and with what was described by the interrogees as social workers, who enter the interrogation rooms and approve the measure prior to the shackling.
18. On many occasions interrogees "break down" over the course of the long and intensive interrogations. The stressful and painful position, coupled by chronic exhaustion, and horrible curses and degradations, sometimes lead to outbursts of rage and threats of the interrogees that "they would do something to themselves" if the interrogation lingers on. Then, the interrogators call the health care personnel mentioned above, who apparently confirm that the interrogees are in a state of suicide risk, thus causing the interrogees to be taken to special rooms with four hooks beds, to which the interrogees are shackled. The interrogees are held in this position for long hours – sometimes for 24 hours and sometimes for even 48 hours. Yells and cries for help are to no avail. It is a traumatic experience which leaves its mark on the interrogees for a very long time afterwards.

19. The fact that the interrogators systematically shackle interrogees to bed attests to the existence of a problem; It is inconceivable that such a large number of interrogees suddenly develops suicidal inclinations over the course of an interrogation. An extremely offensive and humiliating measure is routinely taken against interrogees. After these episodes the interrogees return to the interrogation broken and exhausted. It is a measure which amounts to torture and constitutes an inappropriate interrogation method for all intents and purposes.
20. **Page of rights provided to interrogees** - the last point which we wish to raise pertains to a less severe matter than the above described matters, but we thought it should be raised since it concerns the authority's attempt to act lawfully, however the manner by which it is carried out is deficient and misses its purpose.
21. Many interrogees testified that in the beginning of the interrogation they received from the interrogators themselves a "page of rights", which includes a detailed description of the incarceration conditions they are entitled to over the course of the interrogation, their right to be represented by counsel, their right to meet with Red Cross (ICRC) representatives, etc. As aforesaid, it is a positive thing. However, firstly, said page should be given to all interrogees, and not randomly. Secondly, the page should be drafted in Arabic; most of the interrogees do not know Hebrew very well, if any, and if they know some Hebrew – they do not read Hebrew. The provision of the page in Hebrew, as is done in the vast majority of the cases, thwarts the underlying purpose of its distribution. The interrogees can neither understand nor know what their rights are, if those are not provided to them in their own language.
22. **In conclusion**, we request you to examine the phenomena described above, and check whether they occur systematically over the course of ISA interrogations. If you find that ISA interrogators use said measures systematically, we request you to make a systemic revision as far as these issues are concerned, and stop the use of said inappropriate measures as interrogations methods. If you find that ISA interrogators act contrary to the law, you should judge them severely, either by disciplinary or criminal means, as you may deem appropriate.
23. We thank you in advance for keeping us informed of the manner by which our complaint is handled, including a detailed description of the examinations made and the acts consequently taken.

Sincerely,
Daniel Shenhar, Advocate

cc:

Adv. Rachel Matar, ISA Interogatee Complaints Comptroller at the State Attorney's Office, 29 Salah a-Din Street, 91010 Jerusalem, by registered mail

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