



רופאים לזכויות אדם - ישראל (ע"ר)  
أطباء لحقوق الإنسان-إسرائيل  
Physicians For Human Rights - Israel



# Torture in Israel and Physicians' Involvement in Torture

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## **About this position paper**

This paper expresses the opinion of Physician for Human Rights-Israel (PHR-Israel) on torture in Israel and physicians' involvement in its use. The paper briefly describes the background of PHR-Israel's activism on the issue, emphasizing our struggle to change the position of the medical establishment in Israel and our ongoing efforts to engage the Israeli Medical Association (IMA) in the struggle against torture. It has recently become necessary to elucidate our position on the subject, in view of the intensification of the dispute with the IMA's leaders with respect to this issue, in Israel and abroad. As such, we wish to inform our colleagues, our supporters and the medical community of our current position on torture and ways to combat it, including the need to place responsibility on individuals in the medical establishment who support it, even if only through their silence.

## Summary

- PHR-Israel reiterates its sweeping opposition to all forms of torture that continue to be carried out in Israel, regardless of their rationalization. In a speech he gave to the Bar Association, Justice Aharon Barak said that in the past the heads of the security authorities would thank him for the intervention of the High Court of Justice (HCJ) in matters of security. "The head of the General Security Services said 'thank you' after a ruling declared that it was prohibited to use torture against detainees. We reached the conclusion that when you use your head and not your hands, the results are better."<sup>1</sup> Despite the ruling a decade ago by the HCJ prohibiting torture of prisoners and detainees except under very specific circumstances, torture continues to be practiced in Israel's interrogation facilities. Most cases of torture are not investigated, and interrogators are typically authorized in advance to use torture or other inhumane or degrading methods. These practices are illegal, contradicting Israeli and international law.
- PHR-Israel calls upon physicians to immediately and completely cease their participation in torture, and to fulfill their duty to report all cases of torture or suspected torture that have come to their knowledge. Physicians participate in interrogation procedures that involve torture by examining interrogated persons before, during and after interrogation, and failing to report cases of torture that have been revealed to them. Such participation in torture stands in stark opposition to international conventions to which Israel is a signatory and to the rules of medical ethics that apply to physicians, and may make physicians who participate in torture legally accountable. Physicians' refusal to participate in torture may undermine the legitimacy of those who practice it, and may contribute to ending torture.
- PHR-Israel calls upon the Israel Medical Association (IMA) to utilize its status appropriately to lead the Israeli medical community in the struggle against torture. The IMA must put an end to years of turning a blind eye to torture and physicians' involvement in it. It must seriously investigate complaints it receives on this issue, and take steps to remove physicians who provide services to GSS interrogation facilities from those posts.

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<sup>1</sup> <http://www.nrg.co.il/online/1/ART1/897/559.html>

At the same time, the IMA must publicly provide legal and financial support to physicians who testify regarding torture.

- PHR-Israel calls upon the Ministry of Health to a) reformulate its position such that it is clear that physicians are not only prohibited from participating in illegal activity, but are also prohibited from participating in torture, even if it has been authorized by the Attorney General and/or the Head of the GSS; and b) change its position - that torture is a rare occurrence, if it happens at all, and thus does not justify guidelines - and to issue clear guidelines on torture, in accordance with the rules of medical ethics and international law.

## PHR-Israel's Position - Background and Details

- **Why is the issue of torture relevant today?**

The HCJ ruling of September 1999 determined that the use of physical measures in GSS interrogations was illegal. It also stated that neither the government nor heads of the GSS were authorized to set rules or grant permission in advance for the use of physical measures during interrogation. The Court also stated that "the 'necessity' defense in the Criminal Code cannot serve as a source of authorization for use of these interrogation methods." At the same time, it was stated that "the decision does not negate the possibility that the GSS interrogator use the 'necessity' defense, whether in the framework of the Attorney General's discretion [to] indict or, if he is indicted, in the framework of the Court's discretion." This statement may serve as a loophole justifying the defense after the fact, for using physical means during interrogation.

According to documents and responses from government entities, special measures continue to be employed following the HCJ ruling, and interrogators continue to be granted the necessity defense in advance, in contradiction to the ruling (see request by the Public Committee Against Torture in Israel [PCATI] and others, under the Contempt of Court Ordinance)<sup>2</sup>. Documents demonstrate that "the 'necessity' defense is not a general term, but rather an interrogation procedure that is activated in advance and which serves as permission to employ illegal, exceptional, physical interrogation measures; measures which have been prohibited in the past by the ruling, and new methods whose implementation is prohibited to the same degree."<sup>3</sup> The GSS' responses as reported in Ha'aretz (8 November 2006 and 10 November 2006) also acknowledge the granting of authorization in advance: "Authorization to exert force in interrogations is granted by authorities holding at least the rank of chief of interrogation team, and sometimes comes from the head of the Service himself." Also: "It should be made clear that authorization to employ special measures in interrogations may be given only by the head of the GSS." For victims' testimonies, see PCATI ([http://www.stoptorture.org.il/he/ticking\\_bombs](http://www.stoptorture.org.il/he/ticking_bombs)), Complaint submitted by PHR-Israel and the Committee to the IMA; the report by B'Tselem and HaMoked-Center for Defense of the Individual

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<sup>2</sup> <http://www.acri.org.il/pdf/petitions/hit5100biz.pdf>

<sup>3</sup> On 6 July 2009, the HCJ denied the request, determining that a procedure under the Contempt of Court Ordinance was not appropriate for a claim against the violation of a declarative ruling.

(<http://www.hamoked.org.il/items/13100.pdf>), and the subsequent complaint.

Apparently, cases in which the interrogator declares that he has employed exceptional measures are not investigated. Furthermore, interrogators are given permission in advance to use these measures, in complete opposition to the HCJ ruling.

The claim according to which torture only occurs in emergency cases and in order to prevent concrete terror attacks from happening (the "ticking bomb" argument) cannot justify the torture that continues in contravention of the HCJ ruling. In fact, the GSS uses this argument to torture detainees who have nothing to do with the "ticking bomb". More importantly, as Professor Statman<sup>4</sup> has stated, "Given the fact that, as a matter of principle, there will be circumstances, such as the case of the ticking bomb, when the use of torture will be permissible... this does not mean that in the realm of human reality it is likely that such circumstances actually exist..."<sup>5</sup>. According to Professor Statman, torture serves primarily as a means to exert control and intimidate. Furthermore, torture requires a competent support system, made up of the interrogators who use torture methods, the judges who authorize them, the physicians who sanction them, and a society that approves them in advance. The price paid by a society that maintains such a mechanism is the loss of all of its values.<sup>6</sup>

What about physicians' involvement in torture? Shouldn't a physician be present at interrogation facilities in order to prevent irreversible damage?

The rules applying to prisoners in Israel require that a medical examination be offered to all detainees and prisoners as soon as possible after their arrival at the facility. According to interrogated prisoners' testimonies and medical documents, physicians in Israel participate in torture by examining detainees before, during and after interrogation, and fail to report torture or to take

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<sup>4</sup>"The Question of Moral Absolutism and the Prohibition on Torture".

<sup>5</sup> *ibid*, p. 172. Statman also emphasizes that the violent and humiliating treatment of Palestinian detainees deviates sharply from any acceptable interpretation of the ticking bomb principle. The fact that this treatment is only directed towards Palestinians and not towards Jews affirms, to a certain extent, Edward Peter's statement that "It is not primarily the victim's information, but the victim that torture seeks to win - to reduce to powerlessness." This treatment's first and foremost goal is to gain control over the population which is seen as menacing and to frighten and contain it, not to gain information on "ticking bombs."

<sup>6</sup> Brecher, B. Torture and the Ticking Bomb.

action to remove the detainee or prisoner from the facility in which torture is carried out. Are these rules and practices consistent with the ethical duties and international rules that apply to physicians?

It is our point of departure for the purposes of this discussion that the physician whose actions benefit the detainee, at the detainee's request, differs from the physician whose actions benefit the institution. While the former serves the interests of the patient the latter constitutes part of a procedure that causes human suffering and even legitimizes it, by virtue of his or her professional status. Physicians' involvement in torture is therefore absolutely prohibited by the international rules established in the Tokyo Declaration, which was adopted by the IMA. Physicians are also prohibited from participating in medical exams prior to an interrogation involving torture, as such an exam lacks a therapeutic aspect and is only meant to assess whether the detainee is fit to be tortured.<sup>7</sup>

In the past, many concerns were raised regarding physician's involvement in examinations conducted during and after interrogation. Ostensibly, examining the detainee at these stages serves both the tortured person's health as well as the torturers' interests by medically sanctioning torture de facto. It is plausible that the physician authorized to examine the detainee is not fully autonomous, since he is aware that his treatment or opinion may in fact serve as a tool benefiting those practicing torture. Therefore, the medical community has established that physicians may not be present in a facility in which torture is carried out. In the case of a detainee who arrives at a medical facility with signs or complaints of torture, the physician must provide medical treatment immediately; and the Tokyo Declaration requires that the physician must report the torture. Also, the physician must receive the prisoner's consent for treatment and may not send him or her back to where he or she was tortured due to the concern that the torture may continue.

As torture in Israel is conducted by the security authorities, PHR-Israel is convinced that physicians must report torture to independent bodies. Furthermore, in accordance with the oath they are required to take after becoming medical practitioners, physicians may not participate in inflicting damage or pain on patients (including torture) that is not a necessary part of medical treatment. The state's acknowledgement of its use of physical measures in interrogations, therefore, suffices to obligate physicians to completely refrain from any kind of participation in GSS interrogations and to remove physicians from GSS facilities.

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<sup>7</sup> Phillips M., Dawson J., *Doctors' Dilemmas: Medical Ethics and Contemporary Science*, Brighton: Harvester Press, 1985, p.101.

- **Isn't PHR-Israel's criticism an attack on all physicians in Israel?**

On the contrary - Our criticism is intended solely to protect Israeli society by eliminating torture, guided by the belief that a society that practices torture is a sick one. Furthermore, the best way to protect physicians is to remove them from the system that enables torture, including detention facilities and institutions where torture takes place. Physicians' continued employment at these facilities places them at risk of violating medical ethics, which in turn may lead to the revocation of their license or to criminal prosecution. Most physicians do not come into contact with persons who have been tortured, and do not consider this to be a problem they face. They do not take notice of their colleagues who work in prisons, detention centers and GSS facilities and who typically obey the organizations' orders at the expense of their obligation to medical ethics. It is our belief that the only way to advance the struggle to uphold the values of the medical profession is to defend physicians who report torture, similar to the protection afforded by law to those who expose corruption.

This position finds support in similar moral issue from the past in which human rights organizations faced public accusations of attacking the army. The issue concerned the use of individuals as "human shields" in the Occupied Territories. After the HCJ ruled against the use of "human shields" a senior officer who served in the Territories told Ha'aretz that "While some army officers are still having a hard time processing the HCJ guidelines, he himself believes that the judges did us a big favor by straightening us out and reclarifying the rules of right and wrong on this issue. External intervention was necessary for these issues to be sorted out."<sup>8</sup>

- **Why be so hard on Israel, when torture in other countries is so much worse?**

As a member of the International Federation of Health and Human Rights, PHR-Israel joins in its sister organizations' protest against what occurs in their respective countries, and stands behind medical personnel whose governments persecute them due to their support for victims of torture. As an Israeli organization, however, our focus is what occurs in our own country, based on the complaints we receive from those we assist. We aim to strengthen and enhance the values of Israeli society and of the medical community. The argument that the number of torture cases in Israel is small and not as serious as in other countries does not detract from our obligation to eliminate it.

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<sup>8</sup> <http://www.haaretz.co.il/hasite/spages/1100281.html>

Of course, it would have been preferable that the Israeli medical association join the struggle against torture, as was the case in Turkey. The engagement of institutional organizations can lead to the desired change and strengthen ethical codes that may help to eliminate torture. We hope the organizations of Israel's medical establishment take responsibility in this spirit.

• **What is the position of the Israel Medical Association (IMA) on the issue of torture and physicians' involvement in torture?**

In the nineties, although it had already been proven that physicians had participated in torture by conducting medical examinations before, during and after interrogations, without reporting or taking action to protect tortured persons (see medical form), the IMA claimed that it could not take action against guilty physicians, as it did not have their names. The IMA also chose not to issue an order for physicians not to work in GSS facilities, although it was well-known that the GSS inflicted what was then known as "moderate physical pressure" during interrogations. These measures were defined as torture by the UN Commission, and were later prohibited by the Israeli High Court of Justice (see above on the 1999 ruling). Furthermore, throughout this period the IMA's leaders' statements reflected positions that were a long way from unequivocally rejecting torture. Below are a number of these statements:

- In a letter to The Lancet dated 3 September 1997, IMA Chairman Dr. Blachar explained that moderate physical pressure conformed to international law, while reiterating the organization's commitment to the Tokyo Declaration.
- IMA Ethics Bureau Chairman Professor Dolev gave an interview to Neri Livneh of Ha'aretz on 29 January 1999, explaining that "not every presence in a GSS facility means participation in torture... besides, we do not live in a country named Utopia. As a citizen, I can understand that these things are a necessity for the state of Israel." Dolev indicated that the problem was a lack of guidelines, but took a different kind of action: "I know the right people and I can speak to them, and this brings about results. A week ago, the issue of the more comfortable handcuffs and the ventilated sack was publicized. Who do you think was behind that?" he asks the journalist.
- Prior to the publication of PHR-Israel's 1999 report "Physicians and Torture: the Case of Israel" (a report which followed several other publications by PHR-IL on torture, including a report and a book from 1992 and 1995, respectively) PHR-Israel representatives met with Dr. Blachar and Professor

Dolev. Also present at the meeting was the Chief Medical Officer of the Israel Police, who requested ethical guidelines and a statement about whether a medical exam before, during and after an interrogation constituted participation in torture. The IMA's leaders responded that before answering these questions, they had to decide whether the IMA believed that "moderate physical pressure" constituted torture. Up until the HCJ ruling, however, the IMA failed to respond to this question.

- On 15 November 1999, after the HCJ ruling, the IMA chairman published an Op-Ed in Ha'aretz in which he referred to the use of "moderate pressure" during interrogations as a practice from the dark ages. He indicated that "now, perhaps belatedly, these physicians [who work in the prison - PHR-Israel] can join the community of physicians... who have already adopted the ethical codes, and report to the IMA of any deviation from norms of behavior, which have finally been legitimized by the HCJ." Even in this article, however, in which he endorsed the ruling prohibiting torture, the IMA chairman made sure to leave a loophole allowing harm to interrogated persons to continue: "I have no doubt that in circumstances in which exertion of pressure, as opposed to torture, is justifiable in view of the existence of a "ticking bomb", before the Attorney General or the Court, treatment will be determined by the special circumstances."

In recent years, numerous testimonies that have been collected indicate that forms of torture similar to those employed prior to the 1999 HCJ "Torture Case," have been resumed. Following publication of reports by PCATI, B'Tselem and HaMoked, we contacted the IMA, and a meeting with the Association's representatives was held on 10 December 2008. At this meeting, Professor Blachar requested that complaints regarding physicians participating in torture be formally submitted to Ethics Committee chairman Professor Reches, and we subsequently followed this procedure (See PHR-Israel and PCATI complaints). Professor Reches responded in English. In a joint PHR-Israel/PCATI letter, we addressed the flaws in his response and in the manner in which he investigated our findings. Below are some of the more blatant flaws that we pointed out:

- a) Professor Reches claimed to have personally investigated the matter by talking to the physicians whose names appeared in the complaints. However, a single conversation with the physicians suspected of being involved in torture is insufficient to seriously investigate the complaints.

- b) The IMA overtly disregarded cases in which medical documentation showed that tortured persons had been examined by some of the physicians mentioned in the complaints.
- c) The investigation cannot be completed without hearing and examining the individual complaints.
- d) The IMA's argument that in cases of alleged torture it is "the victims' word against that of the physicians, and there is no way to decide between them" is wrong for a number of reasons:
  - 1) The state acknowledges its use of physical measures in interrogation;
  - 2) Only the tortured and the torturer are present at the time of the torture, and, like in cases of rape, here too there are only the two sides' testimonies. It is unreasonable to routinely deny the tortured persons' reliability. Also, the investigation must not be denied merely because it is 'one person's word against another';
  - 3) Like PHR-Israel, the IMA must also demand to view the medical files from the interrogation in order to attempt to discover what the physicians witnessed.
- e) As the IMA investigation was incomplete, the association's denial of physicians' participation in torture is unfounded.

We believe that as the institution in charge of professional ethics, the IMA must initiate action to prevent physicians' participation in torture. International experience shows that physicians who work in jails and prisons need to be supported, and that proactive steps (not an isolated, retroactive examination) need to be taken to prevent their participation in the torture mechanism. This support must be expressed in legal, financial and public support for physicians who testify to having encountered violations of human rights and medical ethics in general, particularly torture.

- **Do the statements of the IMA leaders withstand the test of reality?**

As we have indicated, Israeli authorities have acknowledged in official documents the continued use of measures under the necessity defense. We believe that this alone warrants that the IMA instruct its physicians not to work with GSS interrogation facilities. Furthermore, PHR-Israel holds medical files that prove that detainees who entered interrogation facilities in good physical and mental health began to suffer from severe physical and mental disabilities. PHR-Israel also has medical documents demonstrating that Israel Prison Service (IPS) physicians witnessed various kinds of harm inflicted on interrogated persons, and even provided medical information to torturers in forms directed to the person in charge of the interrogation. We also have victims' affidavits testifying that

they informed physicians that they had been tortured, but that the physician did nothing to protect them.

In the 1990s, the medical community's anti-torture campaign failed due to its insufficient resolve and lack of integrity. It was the legal system that ended torture as we knew it then. Does the medical leadership choose to be hesitant once again, or is there a chance it may hold steadfast to the principles of medical ethics? The IMA's statements to date, and those of the Israeli Ministry of Health, give us cause for serious concern that nothing has changed, and that we will have to await the Court's decision once again. Below are some of the statements that give us cause for concern:

- "It is inconceivable that Israeli physicians would participate in torture" (Dr. Blachar's response to PHR-Israel, 7 May 2007).
- "There is not the slightest objective evidence of physician participation in any form of torture" (Attorney Borow's e-mail dated 23 July 2008).<sup>9</sup>
- "We have not received physicians' names" (Attorney Borow below, see appendix) or "The names are not complete, some are not IMA members" (Professor Reches' letter, see appendix). In fact, names have indeed been submitted; in other cases, had it wished to do so, the IMA could have demanded that the GSS or IPS reveal physicians' names on the basis of the exact locations, dates and times that we provided. The Chief Medical Officer of the IPS has recently become a member of the IMA's Ethics Committee, ostensibly creating a channel for transmission of information between the organizations that is much easier and freer than that by which PHR-Israel receives information.
- "Put up or shut up": The Jewish Chronicle ran an article on 9 July 2009 quoting World Medical Association Chairman Dr. Yoram Blachar as telling his critics including PHR-Israel to "put up or shut up" and suggesting we file a complaint against the physicians with the police and the Attorney General. Indeed, this document presents some of our prevention activity and our attempts to remove physicians from the torture mechanism. At the same time, we are collecting additional information regarding physicians' involvement in torture, and are looking into legal channels as well. It is unfortunate that despite all the information that has been presented to him, Dr. Blachar has refrained from placing pressure on the authorities to carry out

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<sup>9</sup> The fact that outside organizations continuously repeat unsubstantiated allegations does not make them true, especially when there is not the slightest objective evidence of physician participation in any form of torture.  
 I repeat - when we are provided with any such evidence or with the names of specific physicians who are alleged to have participated in torture we will investigate and take all the necessary action if the allegations prove correct.

a serious investigation on the torture issue and from demanding physicians' removal from GSS interrogation facilities.

- **What is your position on the IMA's obligation and that of its leaders?**

We have grave concerns regarding the IMA's position on Israeli physicians' participation in torture. We believe that the association has not addressed the issue with the requisite seriousness. It has failed to be proactive or initiate its own investigations, and has not shown the serious, in-depth consideration warranted by the grave complaints it has received. Not only has it treated the information conveyed to it by human rights organizations dismissively, it has attempted to undermine the organizations' reliability and to refute any possibility that physicians participate in the torture mechanism in Israel. If the IMA is unable to investigate complaints it receives itself, it must demand that an independent investigative entity be established, that physicians refrain from any form of participation in torture, and that the Ministry of Health set clear rules on this matter. We expect the IMA to recognize its prominent stature in the Israeli medical community and to lead the public campaign against torture and physicians' involvement in its implementation.

- **What is your position on the boycott initiative, including the boycott of the IMA or its leaders?**

As we have not given up on dialogue and persuasion, PHR-Israel does not support the use of a boycott. However, our member physicians are free to join any petition, doing so as individuals, not as representatives of the organization.

- **What is the role of the Ministry of Health? Isn't it accountable?**

In June 2006, PHR-Israel contacted then Director-General of the Ministry of Health, Professor Avi Israeli, demanding that guidelines be issued to physicians and other medical staff regarding the duty to report suspected torture and the prohibition on any kind of cooperation with torture or violence. We also attached a guide on identifying, treating and reporting torture.<sup>10</sup>

The Director-General's reply was not received until May 2009, and stated that: a) if the information on torture is correct, it relates only to exceptional or extreme cases; b) "issuing guidelines to the entire system in order to deal with isolated, exceptional cases may,

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<sup>10</sup> [http://www.phr.org.il/phr/files/articlefile\\_1215706103562.pdf](http://www.phr.org.il/phr/files/articlefile_1215706103562.pdf)

even if indirectly, seriously tarnish the reputation of the country's therapeutic professionals and security forces." In other words, the Ministry of Health prefers the reputation of the security establishment and its physicians over publicizing an unequivocal stand against physicians' participation in torture. While Prof. Israeli writes that the Ministry of Health opposes the participation of physicians and medical staff in illegal activity, the situation in Israel is especially problematic as the legal authorities sanction the use of the necessity defense in interrogations. PHR-Israel demands that the Ministry of Health instruct physicians to refrain from violating medical ethics, and that in case of conflict between the law or the conduct of legal authorities and medical ethics - ethics should prevail.

- **What is the role of the World Medical Association?**

The WMA aims to serve humanity by striving to set the highest international standards in medical education, science, ethics and medical treatment for all the world's nations. To this end, the WMA has set conventions and ethical rules and is supposed to supervise their implementation. It is well known that torture occurs in many places worldwide (for example, the recently exposed involvement of mental health professionals in the planning and supervision of torture at Guantanamo Bay). PHR-Israel has submitted a query to the WMA as regards the duties of national medical associations in these cases and in times of armed conflict, but we have not yet received its response. We believe that as an agency with many country representatives, the WMA is required to carry out a balanced and honest discussion on the obligation and ability of the various local medical associations to combat torture and support these associations' campaigns as part of a joint international struggle to eliminate torture and physicians' participation in its implementation.

- **So what can be done?**

- **Education:** PHR-Israel believes that the best way to combat torture in general, and the participation of medical staff in torture, specifically, is through education and raising awareness about ethics and human rights.<sup>11</sup> When possible, we offer workshops for medical students and nurses. We call upon programs that teach therapeutic professions to open their doors to civil society organizations such as PHR-Israel, and to work in partnership with us to teach medicine and human rights.

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<sup>11</sup> See the Norwegian Medical Association's internet course, translated by PHR-Israel, also on the IMA website.

- **Legislation:** In order to encourage physicians to combat torture and discontinue their involvement in it, we cannot rely solely on the strength of individual will. Legislation needs to be passed that requires physicians to report cases of torture and/or violence; at the same time, the medical staff member who reports torture must receive steadfast professional, legal, financial and employment support. This support must come from outside the system within which medical staff work, and must assure that those who report torture/violence receive protection, including legal protection against dismissal or harassment from the system that is interested in a conspiracy of silence.
- **Removal of physicians from facilities in which torture is carried out or discontinuing cooperation between them:** This is the only way to ensure, in the long term, that physicians do not cooperate with the torture mechanism and to prevent the mechanism's reliance on the legitimizing presence of physicians within it.
- **Removal of the medical service system from the Ministry of Public Security:** This is the only way to maintain the professional and ethical independence of medical personnel and to liberate them from the pressures of the security system whose values often conflict with medical ethics.
- **Introduction of mechanisms to ensure transparency and monitoring in the conduct of detention/interrogation agencies.** Independent professional bodies as well state authorities must monitor these procedures. See PHR-Israel's report on this issue:  
[http://www.phr.org.il/phr/files/articlefile\\_1223301849640.pdf](http://www.phr.org.il/phr/files/articlefile_1223301849640.pdf)

## Summary

It is PHR-Israel's aim that the person in the white coat who meets a person being tortured and battered will inform the outside world and act tirelessly to prevent the continuation of the practice of torture. It is first and foremost the responsibility of the medical establishment - the Israel Medical Association and its leaders and the Ministry of Health - to discontinue physicians' involvement in torture. For years, these agencies have failed to take action against torture. Not only have they failed to investigate complaints and to issue clear ethical guidelines to physicians, they have gone so far as to cast doubt on complainants' reliability while they defend the security establishment. This conduct must be changed by assuming responsibility and demonstrating active commitment to leadership of the campaign against physicians' participation in torture. PHR-Israel will continue to take action seeking the medical establishment's recognition of its responsibility and the complete elimination of torture in Israel and of physicians' participation in its implementation.

**רופאים לזכויות אדם** מאמינה כי לכל אדם הזכות לבריאות במובנה הרחב ביותר, בהתבסס על זכויות אדם, צדק חברתי, וכללי האתיקה הרפואית. חובתה של מדינת ישראל ליישם זכות זו באופן שוויוני, לכלל האוכלוסיות תחת שליטתה: תושבי ישראל, הבדואים בכפרים הבלתי מוכרים בנגב, אסירים ועצירים, מהגרי עבודה, חסרי מעמד אזרחי, פליטים ומבקשי מקלט, ופלטוניים בשטחים הכבושים.

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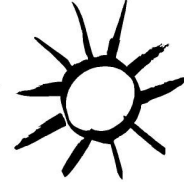
## Appendixes

### PHR-Israel's complaint following the Report of HaMoked - The Center for the Defence of the Individual and B'Tselem

"אשמור אותם מכל רע ועוולה"

שבועת היפוקריס

רופאים לזכויות אדם - ישראל (ע"ר)  
أطباء لحقوق الإنسان-إسرائيل  
Physicians For Human Rights - Israel



6 May 2007

HaMoked and B'Tselem Report1

Dr. Yoram Blachar  
Chairperson  
Israel Medical Association

Dear Dr. Blachar,

Re: **Report of HaMoked - The Center for the Defence of the Individual  
and B'Tselem on the subject of the torture and abuse of Palestinian  
detainees**

[http://www.btselem.org/Download/200705 Utterly Forbidden heb.doc](http://www.btselem.org/Download/200705_Utterly_Forbidden_heb.doc)

A report was published today raising grave suspicions that the GSS is continuing to employ physical and psychological means that can be defined as prohibited torture in accordance with medical ethics, international law, and the rulings of the Supreme Court. Following the Supreme Court ruling prohibiting the use of means of interrogation that were employed at the time by the GSS, you wrote (Ha'aretz, 25 November 1999) that "the convention prohibits any passive or active involvement by physicians in torture, in authorizing or consenting to torture; and there is an explicit prohibition against the presence of a physician in a place in which torture takes place." As we understand it, these comments are consonant with our demand as stated above.

I am writing to ask you to contact the GSS and request that it clarify whether these methods have indeed been used, so that you can reach an informed decision regarding the role of the attending

medical personnel. As we understand it, unless it is clarified to physicians working in the facilities that interrogations are to be conducted solely by lawful means, the IMA will be required to instruct them not to be present in these facilities until it is firmly resolved that the GSS has ceased to use physical and psychological abuse against the interrogees.

This request is a response to affidavits taken by the two above-mentioned organizations clearly indicating that "the GSS is routinely implementing a regime of interrogations that entails the psychological and physical abuse of interrogees."

Background: The authors of the report note the following points:

1. The findings of the report are based on the testimonies of 73 Palestinian residents of the West Bank arrested during the period July 2005 through March 2006 and interrogated by the GSS. Although this does not constitute a statistically representative sample, it provides a valid indication of the frequency of the phenomena described in the report.
2. The witnesses in the sample reported beatings, painful handcuffing, curses and humiliation, and the denial of basic needs at the hands of security personnel from the time of arrest and through their transfer to the GSS. Approximately two-thirds of the witnesses (49 out of 73) reported that they had suffered at least one of these types of violations, which are defined in international law as prohibited abuse and may even constitute torture. The research did not examine whether this abuse was intended to "soften up" the detainees ahead of their interrogation by the GSS; however, this is undoubtedly the practical outcome.
3. The GSS interrogation regime - routine abuse. The interrogation regime of the GSS includes seven key components that in varying degrees violate the dignity and integrity of the interrogees. This violation is exacerbated by the combined activation of these components during the interrogation period, which lasted for an average of 35 days in the sample:
  - A) Isolation from the outside world - prevention of a meeting between the interrogee and his attorney and Red Cross representatives;
  - B) Conditions of imprisonment as a means of applying psychological pressure - detention in stifling and stench-filled cells in conditions of solitary confinement;
  - C) Conditions of imprisonment as a means of physical enfeeblement - prevention of physical activity, disruption of sleep, and substandard food;

- D) The "Shabah" position - painful and protracted shackling to the chair of the interrogees' hands and legs;
- E) Curses and humiliations - curses, full body searches, shouting, spitting, etc.
- F) Threats - including threats of grave physical torture, arrest of family members, etc.
- G) The extraction of information by informers ("asafir") - this method is not injurious in itself, but its efficacy depends largely on the abuse of detainees immediately prior to its use.

These means were used against the vast majority of the witnesses included in the sample. The means are not the inevitable "by-product of the needs of the detention and interrogation. Rather, they are intended to break the interrogees' spirit. Accordingly, they are contrary to the Supreme Court ruling and, according to international law, constitute prohibited abuse. Moreover, in certain circumstances they may even constitute full-fledged torture.

4. "Special" interrogation methods are used by the GSS interrogators in some cases in addition to the routine means, probably in cases in which the interrogees are defined as "ticking bombs." These "special" methods include direct physical violence. The witnesses in the sample described seven such methods:

- A) Sleep deprivation for more than one day (15 cases);
- B) "Dry" beating (17 cases);
- C) Painful tightening of handcuffs, sometimes preventing blood circulation (5 cases);
- D) Sudden pulling of the body to the rear causing pain to the wrists, which are shackled to the chair (6 cases);
- E) Pushing the head to the front or the rear while holding the chin painfully or pushing it with the fist (8 cases);
- F) The "frog" position (forcing the interrogee to crouch on the tips of his toes), accompanied by pushing (3 cases);
- G) The "banana" position - the interrogee's body is bent in an arch form while he is seated on a chair without a backrest (5 cases).

These means are clearly defined as torture in international law. Their use is not routine, but neither is it insignificant. Although the Supreme Court ruled that GSS interrogators who have abused interrogees in "ticking bomb" situations may enjoy immunity from criminal liability, this applies only when the abuse was undertaken as a spontaneous reaction by an individual interrogator to an unexpected development. In practice, all the evidence suggests that the "special" methods are used in

accordance with a standing procedure and on the basis of authorization obtained in advance.

Conclusion

- A) It is obvious that the use of these means is apparent to the physicians who examine these detainees, whether because of physical signs or because they should have become aware of the distress faced by the patients during the interview on intake to detention and the medical examination.
- B) Other cases processed by PHR-Israel (we attach letters on these subjects) suggest that the physicians do not do enough to protect the interrogees and fail to report cases in which interrogees have caused them physical or psychological injury.

Accordingly, physicians must not be present in those facilities in which it is known that the GSS is the interrogating body, given their knowledge that illegal means bordering on torture are being employed there.

I will be grateful for your prompt response given the severity of the testimonies.

Sincerely,

Dr. Dani Filc  
Chairperson

Hadas Ziv  
Executive director

CC:

Prof. Avinoam Reches, chairperson, Ethics Committee  
Attorney Leah Wapner, secretary-general, Israel Medical Association

**Dr. Blachar's answer to PHR-Israel**

7 May 2007  
19 Iyar 5767  
667-2007-m

Ms. Hadas Ziv  
Executive-director, PHR-Israel

Dr. Dani Filc  
Chairperson, PHR-Israel

Re: Cooperation between the IMA and PHR-Israel

Greetings,

Firstly, in response to your correspondence further to our reply dated 6 May 2007 regarding the report of HaMoked and B'Tselem regarding the torture and abuse of Palestinian detainees - naturally, our position has never changed!!!

We are committed to the rules of medical ethics in Israel and internationally. I see no need to reaffirm this resolute commitment time after time.

As you note in your correspondence, our position - viz. strict observance of the ethical rules concerning detainees and prisoners - has been clarified to Israeli physicians on more than one occasion.

To prevent doubt, if indeed any doubt exists, it is absolutely forbidden for physicians to assist in any manner in the interrogation of detainees and prisoners, and it is absolutely forbidden to cooperate with any acts of torture. Such involvement, such as examining prisoners before their detention or physical examination before interrogation, constitutes prohibited actions.

Moreover, we expect physicians employed in the GSS or the security forces responsible for the interrogation of Palestinians - and, in general, Israelis who witness the violation of these rules - to report this to the IMA or to the IMA's Ethics Committee so that we can respond accordingly.

No information or proof has been presented to me showing that physicians are participating in any manner in preparing or examining prisoners for interrogation; it is certainly unthinkable to attribute involvement in torture to Israeli physicians.

As has been our practice in the past, following the receipt of the copies of your correspondence and that of other bodies with the

military authorities or other security bodies, we shall once again, as is required, contact the General Security Service in order to obtain their response regarding the findings of the reports of the HaMoked and B'Tselem concerning the assistance or presence of physicians in actions prohibited by law and in accordance with the international conventions.

As for our planned meeting this evening - it is unfortunate that this is not to take place.

It is no secret that the catalyst for the meeting is the re-emergence of a poisonous viper from the school of Dr. Summerfield and his associates. Just as his activity in the past against Israeli physicians, against the Israel Medical Association, and against the British Medical Association has been unsuccessful, so this time, too, he will fail.

The renewal of Dr. Summerfield's activities was sparked on this occasion by a defamatory letter signed by some 20 Palestinian organizations, some of them obscure, containing allegations that have more in common with the Thousand and One Nights than with the truth. Dr. Summerfield, whose agenda includes attacks against the IMA for various motives, some evidently extraneous, shows no regard for the connection between this letter and the truth. The petition itself enabled him to recruit some 125 British physicians who signed the demand to boycott the IMA and remove it from the WMA.

Such behavior on the part of someone who does not live here and is not interested in the facts (all the attempts to engage in dialogue with him and meet him under the auspices of the WMA have failed) is hardly surprising. But it is impossible to understand why you have joined the festival in the Guardian with your response to this publication in the Jerusalem Post.

During the period of Tomer Pfeffer and Dr. Ruhama Marton in PHR-Israel, meetings were held with the participation of Prof. Eran Dolev, head of the IMA Ethics Committee at the time. We reached an understanding at that time - if not formal agreements - that PHR-Israel would refrain from publishing accusations and attacks against the IMA in the international arena. This reflected a conviction that besmirching Israeli physicians and the IMA in the international arena is contrary to PHR-Israel's desired avenue of influence. Antisemitic and opportunistic "hitchhikers" catch a ride on the wagon of universal medical ethics and miss no opportunity to attack and besmirch (as seems to have been the case with the current initiative in Britain).

If such activities on the international stage made even the slightest contribution to improving the health condition of Palestinians in the Territories, then although the price of the damage to the medical community would be excessive, this would at least be offset by the benefit. The truth is, however, that not only does this not make the slightest contribution to such improvement, but the outcome is solely damage.

I hope that our meeting, at which we will attempt to examine the cooperation between us, will take place as soon as possible after we return from the biannual convention of the WMA Council in Berlin in a few days.

Sincerely,

Dr. Yoram Blachar  
Chairperson, IMA

As an aside, I will relate to the issue of the Palestinian ambulances: Two cases have been documented in which incendiary belts have been transferred using ambulances, as well as a recent additional case. Even one case, however, would be sufficient to indicate the remainder that have not been apprehended. Conversely, no-one disputes that ambulances and medical staff must not be the target of shooting, and this is our position as expressed in the past.

CC:

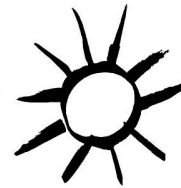
Prof. Elisha Bartuv, Deputy Chairperson, IMA  
Dr. Shlomo Brinkfeld, Deputy Chairperson, IMA  
Dr. Leonid Idelman, Deputy Chairperson, IMA  
Prof. Avinoam Reches, chairperson, IMA Ethics Committee

**Letter of complaint by PHR-Israel and the Public Committee  
Against Torture in Israel**

"אשמור אותם מכל רע ועוולה"

שבועת היפוקריס

**רופאים לזכויות אדם - ישראל (ע"ר)**  
**أطباء لحقوق الإنسان-إسرائيل**  
**Physicians For Human Rights - Israel**



12 February 2009

Ref: AE-09-02-AS

Prof. Avinoam Reches  
Chair, Ethics Committee  
Israel Medical Association

Dear Professor Reches,

Re: Clarification of the Behavior of Physicians during the  
Interrogation of a Detainee

Per your request that complaints relating to the role of physicians during the inspection of detainees, when there is suspicion that violence/torture were used, be forwarded on an individual basis to the Ethics Committee of the Israel Medical Association, the following are the individual complaints relating to cases raised in the report of the Public Committee Against Torture in Israel published in May 2007 - Ticking Bombs<sup>12</sup> (hereinafter - the Report). We have already forwarded the full Report to you.

The case of Mr. Amin Shaqirat, ID 976811927 (pp. 20-24 in the Report)

Date of arrest: 27 November 2004 at his home.

Interrogation in: Russian Compound Detention Center, Jerusalem.

Testimony concerning the course of interrogation: He states that from 28 December 2004 through 2 January 2005 he was interrogated with the use of torture and violence. Notes that he was subjected to protracted handcuffing leading to pressure on his hand and preventing the circulation of blood. Suffered from swelling in his hands as a result of this handcuffing. Also describes that on 19 January 2008 he was beaten by his interrogators who used objects, including nightsticks. After this instance of violence he noticed blood in his urine.

<sup>12</sup> [http://www.stoptorture.org.il/files/139%5B1%5D\\_0.pdf](http://www.stoptorture.org.il/files/139%5B1%5D_0.pdf), Ticking Bombs, May 2007.

Encounter with the medical system: On 30 December 2004, after the commencement of the interrogation that included the use of torture, he was examined by Dr. Alexander Romov, the physician at the facility. Mr. Shaqirat informed the physician of what occurred during the interrogation. The physician wrote in the medical file: "States that during interrogation he was slapped. Also claims that he was shackled to a chair for a protracted period... Complains of pains in the forehead... Complains of pain under the rib cage on the left side... Several subcutaneous bruises on his arms. Hands, and elbows colored brown, yellow, blue... Slight edema in the palms." Dr. Romov recommends monitoring of blood-sugar level and schedules an inspection for four days later. After the violent incident on 19 January 2008, he was examined by Dr. Alexander Hefetz. Dr. Hefetz writes in the medical file: "Complains of headaches, pains in the hips and thighs; states that he was injured today by policemen." The physician identifies signs of trauma on the forehead and left thigh.

Issues to be clarified: The description in the report suggests that on two occasions the attending physicians identified signs consistent with Mr. Shaqirat's description of violence and torture. It should be clarified what actions the physicians took to prevent further abuse of the detainee, and whether the medical treatment he received was appropriate.

The case of Lo'ay Ashqar, ID 900097270 (pp. 28-33 in the Report)

Date of arrest: 22 April 2005.

Interrogation in: Kishon Detention Center.

Testimony concerning the course of interrogation: States that from 22 April 2005 through 26 April 2005 he was interrogated using means that including grave torture and violence. Describes protracted use of the "Shabah" position (the subject sits on a chair without a backrest, his hands cuffed; from time to time he is pushed back forcefully so that his back arches to the rear; the subject's head is sometimes supported by one of the interrogators - when this is not the case, it bangs on the floor). This led to pressure on his back and a "breaking" sensation. Also describes protracted and tight handcuffing and the loss of a tooth due to violence. A wound developed on his lower back due to the torture.

Encounter with the medical system: On 26 April 2005 he was inspected by the prison physician. He states that the physician did not address his claims and merely gave him painkillers. He was later inspected again by the prison physician; states that he heard the physician inform the interrogators that he must be taken to the hospital. The interrogators said that he would be taken to the hospital the next day, whereas in actuality he only arrived in hospital on 1 May 2005. During his inspection at Rambam the physician asked him what had happened. When he began to describe the reasons for his condition the

interrogators silenced him and asked the physician to step outside the room with them. When the physician returned, he examined him and told him: "there's nothing wrong with you, you're discharged," and gave him some ointment for the wound. It should be noted that later on during his period of imprisonment Mr. Ashqar was diagnosed as suffering from drop foot.

Issues to be clarified: The documentation of Mr. Ashqar's medical condition and complaints by the prison physician should be examined, as should the treatment given and the reporting by the physician. It should also be clarified how and why the physician dropped his demand that Mr. Ashqar be taken to hospital and was willing to delay the implementation of his recommendation following the demand from the interrogators. It should be clarified who the physician who attended to Mr. Ashqar at Rambam Hospital was and, if possible, the content of his conversation with the interrogators. It should also be clarified whether the physician documented Mr. Ashqar's complaints and condition properly and whether the treatment he provided was appropriate. We regret that the medical file forwarded at our request did not include medical documentation from the period of interrogation.

The case of Mr. 'Abd al-Halim Iz a-Din, ID 940283096 (pp. 44-48 in the Report)

Date of arrest: 27 October 2005.

Interrogated in: The interrogation facility in Kishon Detention Center.

Testimony concerning the course of interrogation: According to Mr. Iz a-Din, he was interrogated by the use of torture and violence. The torture included protracted seating on a low chair with a backrest while his back was bent to the rear, causing considerable pressure on his back. His hands were cuffed painfully and tightly, preventing the circulation of blood, and he was subjected to beatings. He stated that one of the interrogators kicked his hand and injured a finger that was apparently knocked out of position. In another instance he was beaten until he began to cough up blood and white liquid.

Encounter with the medical system: We did not find any documentation concerning medical examinations of Mr. Iz a-Din during his interrogation since this material was not forwarded as part of the medical file sent to us.

Issues to be clarified: Since the date of commencement of the interrogation of Mr. Iz a-Din at Kishon interrogation facility is known, it is possible to ascertain which physicians examined him during his interrogation. Accordingly, it would be appropriate to clarify who they are and whether his complaints and his medical condition were properly documented. It should also be clarified what

actions were taken by the physicians in order to prevent the torture of the patient.

The case of Mr. Bahajat Yamen, ID 901725358 (pp. 14-17 in the Report)

Date of arrest: 19 May 2004 at his home.

Interrogated in: The interrogation facility in Petah Tikva Detention Center.

Testimony concerning the course of interrogation: Mr. Yamen states that his interrogation began after he arrived at the facility and continued for four days, with the use of violence and torture including: Protracted use of the "Shabah" position and particularly tight handcuffing for protracted periods, stopping the circulation of blood to the hands and causing severe pain. Mr. Yamen describes instances of violence by the interrogators, including one case that left a wound and scratches on his chest and neck.

Encounter with the medical system: States that on 22 May 2004, at the end of the interrogation, he felt unwell, fell down, and was taken to the facility clinic. He was inspected in the clinic by a physician whom he described as "a ginger-colored physician with white hair, tall, and red-faced." After this examination Mr. Yamen was taken back for interrogation, which continued without violence and/or torture.

Issue to be clarified: The identity of the physician who attended to Mr. Yamen can be clarified. It can then be examined whether the physician documented the signs of violence in the detainee's medical file; whether he reported these to any body; and whether he took steps to halt the violence/torture.

The case of Mr. Amjad Abu Salha, ID 97259059 (pp. 52-58 of the Report)

Date of arrest: 19 November 2005

Interrogated in: The interrogation facility in Petah Tikva Detention Center.

Testimony concerning the course of interrogation: Mr. Abu Salha states that before his interrogation he was beaten on the head by soldiers, probably by means of a rifle butt. His hands were also cuffed tightly and a soldier trod on his hand. During his interrogation in Petah Tikva he was interrogated, by means that included the use of torture. He was placed on a chair equipped with a metal triangle in which his legs were held. This caused bleeding cuts on one of his legs and a festering sore developed. His hands were also cuffed painfully for protracted periods causing swelling in the hands that lasted for approximately twenty days.

Encounter with the medical system: Before arriving at Petah Tikva Detention Center he was examined by a military physician in the field. He states that he complained to the physician that he had been beaten and could not raise his hands, but the physician ignored this.

After arriving at the facility in Petah Tikva he was also examined by a physician during intake. He again complained that he had been beaten and could not lift his hand; he states that the physician recorded this. He states that he was examined another time in the facility.

Issue to be clarified: We believe it would be worth clarifying who the military physician who examined Mr. Abu Salha was and to examine whether he properly documented his medical condition and complaints, and whether he forwarded the complaints of violence to the relevant bodies. It should also be examined who the physician who examined Mr. Abu Salha at the interrogation facility was and and it should be clarified whether he properly documented his complaints and condition and provided appropriate treatment. It should be clarified whether, after the physician saw the signs of violence (leg wound, swelling and weakness in the hands) he took any action to prevent further abuse of the patient.

The case of Mr. Hassan Ladadiya, IF 988373486 (pp. 70-73 in the Report)

Date of arrest: 4 June 2006

Interrogated in: The interrogation facility in the Russian Compound, Jerusalem.

Testimony concerning the course of interrogation: He was examined at the facility clinic after suffering a loss of sensation in his hands due to the cuffing. States that the examination was cursory and he was then returned to interrogation, which included torture. On the fifth day of his interrogation his hand swelled and he was again examined at the prison clinic. He was taken to Sha'arei Tzedek Hospital where he underwent an x-ray and a clinical examination that excluded the possibility of broken bones in his hands. On the seventh or eighth day of his interrogation he was again examined in the clinic and was referred to Hadassah Hospital. At Hadassah he was examined by a physician who told him that he was suffering from a laceration of a blood vessel and bruising on the left hand and that he should be referred to a particular physician at Hadassah Ein Kerem Hospital. The same day he was taken back to interrogation, that included torture. Two or three days later his hand was continuing to swell and he was transferred to Hadassah Ein Kerem and examined by a professor who told him that it was not a cut but an infarction and that there was no medical or surgical treatment and he should massage his hand.

Attitude of the authorities: The Public Committee Against Torture in Israel contacted the attorney-general and the Chief Medical Officer of the Israel Police, Dr. Lankovsky, concerning this case. A copy of the letter was also forwarded to you. The Chief Medical Officer of the Israel Police replied: "Your correspondence alleges that your

client was returned to interrogation after examination. In fact, the physician recommended complete rest and he was summoned for a check-up after two hours and was referred to the emergency room on the same day. In addition, on 6 June a report was forwarded by the physician to the commander of the detention center and to the deputy commander of the Jerusalem District [Police] concerning your client's complaints." In your own reply to the Public Committee Against Torture in Israel, you requested that the organization "forward for my review the attorney-general's reply; I shall then decide how to act on this complaint."

Issue for clarification: The identity of the physician who treated Mr. Ladadiya at the detention center should be clarified and it should be examined what actions he took to prevent the continuation of the torture. If the remarks by the Chief Medical Officer are correct and he indeed made an effort to prevent the continuation of the torture but was unsuccessful in this, we would ask what the IMA intends to do about this matter. It would also be worth clarifying who were the physicians who examined Mr. Ladadiya at the various hospitals in order to examine whether his complaints and medical condition were properly documented and what steps - if any - were taken by these hospital physicians to prevent the continuation of the torture.

As you are aware, section 3 of the 1975 Tokyo Declaration of the WMA establishes that:

"When providing medical assistance to detainees or prisoners who are, or who could later be, under interrogation, physicians should be particularly careful to ensure the confidentiality of all personal medical information. A breach of the Geneva Conventions shall in any case be reported by the physician to the relevant authorities."

The cases described above raise concern of a possible lack of awareness among hospital physicians, and particularly among physicians in the IPS clinics, regarding the rules of medical ethics. This concern relates, in particular, to the documentation of signs of violence and/or torture on the person of imprisoned persons and to complaints by such persons themselves. The cases described above suggest that the physicians do not report instances of violence/torture. In some cases, it even seems that they are influenced by "pressure" applied by the representatives of the security system who demand that they act otherwise than in accordance with the rules of medical ethics.

We will be grateful for your examination and comments,

Sincerely,

Hadas Ziv

Executive director

Physicians for Human Rights - Israel  
Torture in

Dr. Yishai Menuhin

Executive director

Public Committee Against  
Israel

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The response of PHR-Israel and the Public Committee  
Against Torture in Israel To Professor Reches



May 21, 2009

Ref: AE-09-168-AS

To:

Professor Avinoam Reches  
Chairman of the Ethics Committee  
The Israeli Medical Association

Re: Investigation of doctors' involvement in torture

Our letter of February 12, 2009, yours of March 9, 2009

Dear Professor Reches,

In your response of March 9, 2009 to a letter submitted by Physicians For Human Rights (henceforth - PHR-Israel) and the Public Committee Against Torture in Israel (henceforth - PCATI) on the above-mentioned topic (sent February 12, 2009), you cite that an inquiry was made into the involvement of doctors in torture, according to information originally set forth in a report published by PCATI entitled "Ticking Bombs" (henceforth - the Report). Your letter was sent via e-mail without clear indication of a recipient and for some reason was drafted in English. It is therefore not clear whether it constitutes a veritable response to our query.

Your letter states that an inquiry into our complaints was carried out. We welcome this inquiry though at the same time, it appears you conducted amicable and unofficial conversations with several of the doctors allegedly involved, rather than pursuing a professional, detailed and thorough examination of serious and specific claims raised in the Report and vis -a -vis our above-mentioned letter,

Since the method of inquiry eludes us, we pose the following:

1. Did your investigation include further inquiries beyond the telephone conversations mentioned in the letter? And have you held any conversations with doctors who work at the hospitals where the interrogated individuals had been examined and treated?
2. Has the Israeli Medical Association (henceforth the IMA) reviewed the detainees' medical files, including medical documentation from the moment of arrest and subsequent documentation of all examinations/treatments carried out at public hospitals?
3. Is it likely that doctors who work at the Israeli Prison Service detention facilities that are located adjacent to IPS' interrogation facilities, claimed to have no connection to the Prison Service due to the fact that they are employed by a private company, rather than the IPS?
4. It is not clear why your response does not relate to specific cases pending investigation and to doctors suspected of having been involved in torture.

It is important to note that on several occasions, both prior to the publication of PCATI's report in May 2007 and following its release, we had asked the IMA to investigate specific cases in which Palestinian detainees reported on instances of torture during their interrogation and on undergoing medical examinations prior to, during and following the interrogation. Several of these testimonials are featured in the Report. From the detainees' sworn statements it emerges that often doctors employed by the Army, the Prison Service, or public hospitals witnessed signs of torture. As a matter of principle, we asked the IMA to move to address the issue from within and to impress upon the medical community their obligation to report every instance of suspicion of torture and abuse of any individual under their care and to act immediately to put an end to its practice.

Following our inquiry, we were told several times by the IMA that they would not be able to investigate the involvement of doctors in the cases we raised, because the doctors' names do not appear in the detainees' sworn statements. Here it is important for us to note that in nearly all cases under review, doctors do not identify themselves to the detainee, and an additional language barrier hinders communication between the doctor and the detainee. It is therefore unrealistic to expect that the detainee will remember the doctors' name, even if it was in fact made apparent. With this states, it is however possible to obtain the names of the doctors who examined the

detainees by crosschecking the date of examination and the place of detention at the time of the examination.

At a meeting held at your offices on December 12, 2008, we again raised the issue of the involvement of medical personnel in torture, mainly with regards to the non-reporting of torture and the correlating ambivalence of taking steps to stop this practice. We brought up cases highlighted in the Report, which to the best of our knowledge have yet to be investigated by the IMA. At the meeting we were asked by your representative to appeal to you in an "orderly way." And indeed, on February 12, 2009, the above-referenced letter was sent by PHR-Israel Israel and PCATI. The letter is based on the cases presented in the Report and summarizes the relevant facts, with an emphasis on the facilities and hospitals in which the detainees were examined.

Although it is not clear whether your above-referenced letter constitutes an answer to our query from February 12, 2009, it is clear that the explanation you offer as to why the IMA cannot carry out a thorough investigation of the involvement of medical personnel in alleged instances of torture as mentioned in the report, remains insufficient. These "reasons" also do not address why you have refrained from conducting a thorough investigation for the following reasons:

- You note that the doctors' names were presented "incompletely or inconsistently" and that this has made it difficult to track down the doctors, especially taking into account the fact that some of them are not members of the IMA. Regarding this, we hereby draw your attention to the following:
  1. The date of arrest of each of the detainees/complainants is documented in the records, as are the date of arrival for interrogation and the date of release from the detention facility adjacent to the interrogation facility.
  2. For the most part, Palestinian detainees are examined immediately upon arrest (sometimes by a military doctor), upon entering and leaving every detention facility, including the interrogation facility, this in accordance with Prison Service Commission Order Number 044400.
  3. By law, all examinations must be documented in an orderly medical record that can be located. We hereby draw your attention to Section 17A of the Patients' Rights Act of 1996, which stipulates: "A clinician shall keep medical records of the course of a treatment; these records shall include details identifying the

patient and the clinician, and medical information on the treatment received by the patient, his previous medical record as provided by the patient, the diagnosis of his current medical condition, and the treatment instructions issued ...”

4. A doctor’s status in the IMA should not prevent the association from taking action to stop doctors’ involvement in torture, if not at the individual level then at least at the principle level.
- You note that you spoke personally with all of the doctors you succeeded in locating and that most deny any connection whatsoever, in the past or in the present, with the Israeli Prison Service. Here is the place to stress that:
    1. Concerning the six cases presented in our query of February 12, 2009, doctors at the detention facility were mentioned as being involved in seven separate alleged instances, a military doctor was involved in one, and the alleged involvement of public hospital physicians occurred on six separate occasions. Therefore the doctors’ denial of any past or present connection to the Prison Service, as stated in your letter, is puzzling.
  - You note that three doctors employed the Prison Service strongly deny any involvement in interrogations, torture or medical authorization of the above. This is the place to draw your attention to the following:
    1. An IMA position paper states: “Any doctor who bears witness to an interrogation or torture carried out in contravention to international treaties, shall report this to the suitable authority.” From the statements provided by detainees, who were examined by doctors in the detention facility and who told of what they underwent during interrogation, it is possible to deduce that the doctors were aware, if only partially, that the detainee was tortured and it would have been incumbent upon them to have reported this.
    2. A number of medical files received by PHR-I contain a form addressed to the “Supervisor of the Special Investigators Department” with medical information about the detainee signed by the authorizing doctor under “details of the authorizer.” The transfer of information from a doctor to the interrogations supervisor, which includes medical information about the person under interrogation, can surely be considered as participation in torture. As you know, Section 3 of the World Medical Association Tokyo Declaration of 1973 states:

"When providing medical assistance to detainees or prisoners who are, or who could later be, under interrogation, physicians should be particularly careful to ensure the confidentiality of all personal medical information."

- You note in your letter that had we shown you "hard evidence" beyond the testimonies of the detainees themselves, this would have helped you carry out a more formal examination of the issue of doctors' involvement in torture.
  1. It is not clear to us how it is possible to dismiss evidence provided by detainees, which raises the suspicion of disgraceful behavior by doctors, as an insufficient basis for carrying out a thorough investigation. We stress in fact, that various detainees provided accounts, and that a variety of lawyers at different detention sites took testimonies, yet, similar patterns of behavior were noted at all sites. This should diminish any doubt concerning the reliability of the complainants' accounts. Moreover, their testimony is corroborated by information found in their medical records.
  2. It is important to stress that in order to open an investigation into a complaint concerning torture there is no need for anything beyond the complaint itself. The fact that the complainant was subject to an interrogation by the Israeli Security Agency (henceforth - ISA) during which use was apparently made of "defense of necessity." Your letter implies that in a case in which an individual complains of torture, it is enough to pose his word against that of the person suspected of being involved in the instance of torture in order to decide whether or not to open an investigation of the incident. We find this approach unacceptable. For the sake of comparison, imagine if the police refused to pursue an extensive and thorough investigation of a complaint voiced by rape victim or a victim of sexual harassment in the workplace, only because the person suspected of the attack vehemently denied the deed. As we have already noted and detailed in this letter, there are many ways in which one may confirm or disprove allegations of torture and doctors' involvement. Regrettably, your answer implies that the IMA has not looked into any of these methods.

In summary: The reading of your letter suggests that a superficial examination was carried out not in the least, "pro forma" and it is therefore no wonder that it does not reveal anything. In light of the findings of your inquiry as you note them in your letter, and in light of the fact that you find nothing unacceptable in the doctors'

conduct as it is described in the Report and in our query referenced above, we demand that the IMA carry out a comprehensive and exhaustive investigation of the events described in the report, specifically regarding physician conduct, and that it act to raise awareness and instill the rules of medical ethics among physicians employed in public hospitals but especially among those who work in detention facilities. If this is not within the capacity of the IMA to carry out such steps, it must direct the cases raised in the report to the Ministry of Health or the Ministry of Justice for further inquiry and action.

We would appreciate your swift attention to this matter.

Sincerely,

Hadas Ziv  
Executive Director  
Physicians for Human Rights  
Israel

Dr. Yishai Menuhin  
Executive Director  
The Public Committee  
Against Torture in Isarel

Cc:

Members of the Ethics Bureau, Israeli Medical Association - via the Bureau Secretariat

Mr. Yaakov Litzman, Deputy Minister of Health

Professor Avi Israeli, Director General, Ministry of Health

Attorney Mira Huebner-Harel, Legal Advisor, the Ministry of Health  
Health and Human Rights Team, WHO

Dr. Lars Møller, Manager, Health in Prisons Project, WHO

Dr. Jan Ole Haagensen, Director, International Department, RCT

Dr. Yoram Blachar, President, WMA

Dr. Eva N. Bagenholm, Chairperson of the Medical Ethics Committee,  
WMA

Dr Otmar Kloiber, Secretary-General, WMA

Professor Michael Baum

Professor John S. Yudkin

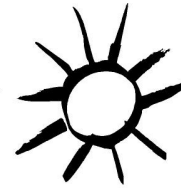
Dr. David Katz

**PHR-IL's Letter to the Ministry of Health**

”אשמור אותם מכל רע ועוולה”

שבועת היפוקריטס

רופאים לזכויות אדם - ישראל (ע"ר)  
 أطباء لحقوق الإنسان-إسرائيل  
 Physicians For Human Rights - Israel



24 June 2008

Dr. Avi Israeli  
 Director-General  
 Ministry of Health

Re: **Instructions to Medical Teams Concerning the Examination of Detainees in Light of Concern of the Use of Violence during Their Interrogation/Detention**

We are writing to you to request that the Ministry of Health take immediate and vigorous action to raise awareness among medical teams regarding their ethical obligation to report and protect detainees who are the victims of torture and/or physical or psychological abuse and that it actively enforce their compliance with this obligation.

The timing of this request is due to the growing number of testimonies regarding the use of physical and psychological pressure, in some cases tantamount to torture and/or other humiliating and inhumane treatment, during the interrogation of Palestinian detainees by the GSS. These testimonies raise, once again, the moral question concerning the involvement of medical teams in such behavior. Physicians and medics in the Israel Prison Service, as well as those receiving detainees in the emergency rooms of the various hospitals, encounter Palestinian detainees who are subject to torture and/or humiliation and do not take action to halt such behavior.

We hope that the lesson of the failure of the medical community to combat torture in the 1980s and 1990s has been learnt, and that as these phenomena return we will see a vigorous and clear response: An unequivocal and comprehensive instruction that medical teams are to be removed immediately from mechanisms of torture in the short term, and that ethical and disciplinary action is to be taken against medical personnel involved, including the withdrawal of their license to engage in the profession. Any behavior on the part of medical teams that deviates from the rules of medical ethics and from the

existing legislation in Israel, including the Patient's Rights Law, 5756-1996, which formalizes the obligation incumbent on medical teams to respect all humans without discrimination, demands disciplinary action and severe penalization.

We shall note at the beginning of our letter that regardless of whether such physical and psychological pressure constitutes torture, the violence in and of itself is sufficient to demand the intervention of the caregiver in order to protect the detainee patient.

Use of torture: Various reports<sup>13</sup> supported by affidavits suggest that the practice of torture has returned to Israel, albeit in different forms. As in the past, torture is commonly justified using the "ticking bomb" argument. It cannot be ignored that the prevailing mood in Israel has ramifications in terms of the willingness of physicians to turn a blind eye to torture, and even to participate by way of "supervision" - the inspection of the detainee before, during, and after interrogation using torture. This supervision provides an important tool - a fig-leaf, as it were - enabling others in the system to continue with these prohibited actions.

It is not our intention in this letter to discuss in detail the damage the use of torture causes to society at large, nor the absolute prohibition against it. It is worth emphasizing, however, that just as the presence of torture damages society as a whole, so the involvement of physicians in torture destroys the very foundation on which the medical professions are based; its ramifications on medical work in general extend beyond the walls of the prisons and interrogation facilities.

Prohibition against the involvement of medical teams in torture: Even if bodies such as the GSS and the Ministry of Defense lack ethical codes, the involvement of physicians in torture, whether by their knowledge, action, or failure to report or alert others to the situation, is prohibited in accordance with any ethical code in the most explicit possible terms. The Declaration of Tokyo of the World Medical Association (1975), for example - which has also been ratified and adopted by the Israel Medical Association - mentions, among other conditions, that:<sup>14</sup>

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<sup>13</sup> HaMoked and B'Tselem, *Absolute Prohibition: The Torture and Ill-Treatment of Palestinian Detainees*, May 2007; Public Committee Against Torture in Israel, *Ticking Bombs - Testimonies of Torture Victims in Israel*, May 2007; *Family Matters*, March 2008.

<sup>14</sup> Website of the Israel Medical Association: <http://www.ima.org.il/imahebnew/T1.asp?p=2&n=7952>, dated 24 June 2008.

- The physician shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhumane or degrading procedures, whatever the offense of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives...
- The physician shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture...
- When providing medical assistance to detainees or prisoners who are, or who could later be, under interrogation, physicians should be particularly careful to ensure the confidentiality of all personal medical information...
- The physician shall not be present during any procedure during which torture or any other forms of cruel, inhumane or degrading treatment is used or threatened.

The nature of cooperation by physicians with torture: The principle form of cooperation with torture in Israel continues to be the examination of interrogees before and after interrogation, during which the medical team ignores the interrogee's complaints in one or more of the following manners:

- Fails to be alert to the presence of the problem;
- Fails to diagnose;
- Fails to treat appropriately;
- Fails to document;
- Fails to report;
- Fails actively to protect the victim;
- Fails to act to stop torture in general, including by struggling against the system.

Which medical teams are liable to encounter torture victims? In addition to the physicians and medics in the interrogation facilities - who are effectively employees of the Israel Prison Service providing medical services for the GSS interrogation facilities within their confines - the detainee, in cases when the torture has become extreme, also encounters medical personnel in the emergency rooms of general and psychiatric hospitals. It should be expected that all medical teams will act vigorously to protect the interrogated detainee from torture and/or violence. Unlike the IPS physicians and medics, however, the teams in the civilian system do not form part of a total framework and, accordingly, are freer to act in accordance with their medical conscience. It emerges, however, that these personnel also fail to take any action, or fail to take sufficient action, to protect those subject to torture. Some interrogees arriving with scars on the bodies or their psyches have

been sent back to the interrogation facilities and to their torturers after a few days. Such a return is clearly inconsistent with the interests of the interrogee-patient.

The need for decisive action by the Ministry of Health: An entire system exists in Israel that dehumanizes Palestinian detainees and holds security considerations to be superior to the interests of the interrogee-patient. This system also leads to tacit participation in torture. Medical teams sometimes operate within a quasi-military system in which preference is given to a level of obedience that impairs autonomy and their ability to act in accordance with their medical conscience. There can be no doubt that the security establishment that employs these personnel (sometimes through manpower companies) cynically exploits their dependence on it for their livelihood, as well as their isolation from the civilian medical system, which could have provided a source of support.

Accordingly, in order to encourage physicians to struggle against torture, or to distance themselves from the phenomenon, it is not sufficient to rely on the emotional strength of the individual, admirable as it is. Action should be taken to ensure that all medical personnel will enjoy access to a vigorous system of economic, professional, and employment support external to the system in which they operate. Such support must function not only as an address for complaints by physicians but also as an establishment that can guarantee legal protection against dismissal and harassment by the system interested in maintaining the conspiracy of silence. See, for example, the proposed law tabled before the Knesset to protect those who expose corruption. The fact that the physicians employed in the Israel Prison Service are not members of the Israel Medical Association, or the argument that they are not accountable to the Ministry of Health, should not prevent these bodies from struggling vigorously to apply the ethical rules to these physicians, and to remove them from their subordination to a body that ignores, facilitates, and/or encourages such deviations.

In light of the above we ask the Ministry of Health to issue clear instructions to all medical teams in Israel as follows:

1. Medical teams are not to cooperate in any manner with interrogation employing torture and/or cruel, inhumane, or humiliating treatment or punishment (hereinafter - "interrogation involving torture.")<sup>15</sup>

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<sup>15</sup> For this purpose, the definition of torture according to the Declaration of Tokyo is:  
 "For the purpose of this Declaration, torture is defined as the deliberate, systematic or wanton infliction or physical or mental suffering by one or more

2. A medical team shall not examine a detainee prior to interrogation involving torture (until such time as the GSS announces that it is to refrain from the use of such means, medical teams will decline to examine detainees scheduled for GSS interrogations).
3. Medical teams (in prison or hospitals) before whom a detainee claims that he has been tortured, or whom the medical team itself suspects has been tortured:
  - A. The medical team will treat the detainee as necessary after receiving his consent.
  - B. The team will absolutely prevent, by means of a medical instruction, the return of the detainee to interrogation and/or to the facility in which he was being held.
  - C. The team will report to an agreed body within and outside the system.
  - D. The team will document in the medical file the details and character of the torture the detainee has undergone and its medical ramifications as these emerged in the examination.
4. A medical team that receives information about torture (including through hearsay) will report this to the agreed bodies.

Conclusion:

Only a categorical prohibition against any cooperation of medical teams with the GSS, together with intensive informational and educational activity by the governmental and professional authorities, will ensure that physicians do not participate in torture - involvement that constitutes the ethical collapse of the medical professions. PHR-Israel, the Ministry of Health, and the Israel Medical Association should be the strongest ethical bulwark against this danger.

In addition, since the Ministry of Health is responsible for all health issues in Israel, we ask that:

- 1) The recommendations noted above appear in a Director-General's Circular and be disseminated to all physicians and medical teams in Israel.
- 2) You ensure legal and economic protection for medical teams that report and prevent ongoing torture and/or cruel, humiliating, and inhumane treatment and violence of any kind.

Given the gravity of this matter I will be grateful for your prompt response.

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persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason."

Sincerely,

Hadas Ziv  
Executive Director

On behalf of: Dr. Ruhama Marton, President; Dr. Graciela Carmon, board member; Dr. Kobi Arad, Dr. Noa Bar Hayim, Dr. Zeev Wiener, and Dr. Deganit Sharon - members of PHR-Israel's Ethics Committee.

CC

Dr. Yoram Blachar, Chairperson, Israel Medical Association  
Prof. Avinoam Reches, Chairperson, Israel Medical Association Ethics Committee

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The response of the Director General of the Ministry of Health

State of Israel

Director General

Ministry of Health  
Jerusalem

23 Iyar 5769

17 May 2009

Ref: 103/192110-13

(Indicate ref. in reply)

To

Ms. Hadas Ziv

Physicians for Human Rights

Greetings,

Re: Instructions to medical staff regarding examination of detainees in view of concerns of violence inflicted during Interrogation/detention

Your letter dated 24 June 2008 and others

I would like to begin by emphasizing that the Ministry of Health opposes entirely the participation of physicians or other healthcare providers in unlawful activity.

I also wish to apologize for the long period that has elapsed since the receipt of your original letter. The delay in our response has been due primarily to the time and thought that various Ministry officials have devoted [to the issue], including a number of meetings held in my office to examine the issue.

As for the matter at hand, your organization's various letters to me regarding the alleged direct or indirect involvement of physicians in torture, include a number of requests aimed primarily at issuing guidelines to healthcare providers regarding reporting suspected torture and the prohibition on taking part in torture in any way.

According to your letter, it is your organization's basic assumption that various physicians in various places and in various systems, particularly IPS [Israeli Prison Service] physicians or physicians who carry out activity [in conjunction with] the GSS [General

Security Service], allegedly provide the security services with their medical skills for the purpose of conducting improper interrogations (involving torture) and/or turn a blind eye in face of cases in which people held in legal custody were tortured by security personnel and others, thereby becoming indirect accomplices to torture.

It is not clear whether these claims are substantiated at all, and as my basic assumption is that if the claims are true, these are exceptional or extreme cases, not a pervasive phenomenon among Israel's healthcare providers.

Thus, the question arises whether for the purpose of dealing with isolated, exceptional cases, it is appropriate to issue guidelines to the entire system, which may, even if indirectly, seriously tarnish the country's healthcare professions and security forces.

At the same time, the option of issuing a memorandum was seriously considered, but was ultimately rejected. Different marginal negative conducts are occasionally detected among healthcare providers, but the very existence of a conduct as a marginal phenomenon does not justify issuing a memorandum to the entire system.

I would like to emphasize that the decision not to issue a memorandum is not an expression of support of unlawful conduct by healthcare providers, and as a physician and a human being, I am of the opinion that it is not proper for a healthcare provider to participate in illegal conduct.

Cases of suspected deviation by an individual healthcare provider from accepted norms of conduct in which a complaint has been filed, may be addressed through the Ministry of Health's mechanism for handling complaints (including against the manner in which an examination committee has been established), regardless of whether the physician involved is a member of the Israel Medical Association or not.

Respectfully,

Professor Avi Israeli

Cc:

MK Rabbi Ya'akov Litzman, Deputy Minister of Health

Dr. Boaz Lev, Deputy Director-General, Ministry of Health

Dr. Hezi Levi, Director of Medical Administration, Ministry of Health

Attorney Mira Hibner-Harel, Legal Counsel to the Ministry of Health

Dr. Michael Dor, Director of General Medicine, Ministry of Health

Attorney Sara Shar-Lev, Chief Prosecutor, Ministry of Health  
Attorney Sharona Ever-Hadani, Legal Bureau, Ministry of Health  
Ms. Yael Bar, Senior Assistant to the Director-General, Ministry of Health  
Dr. Itzhak Berlovich, Director, Wolfson Medical Center

2 Ben Tabai St. Jerusalem 93591 P.O.B. 1176. Tel: 02-6705706, Fax:  
972-2-6783266

### **The IMA Adopts the Declaration of Tokyo**

The Israel Medical Association (IMA), as a member of the WMA, accepts the content of the Declaration of Tokyo and ratifies the latest version of the declaration from May 2006 as it appears in these pages.

### **Position Paper: Prohibition on the Participation of Physicians in Interrogations and Torture**

- A physician is obliged - as a human and as a physician - to respect the dignity of any other person.
- A physician shall not participate in any actions that entail torture, cruelty, or the humiliation of another person, regardless of the actions, alleged offenses, or beliefs of that person.
- A physician shall not grant medical authorization for torture and shall not provide medical information, equipment, or medicines for this purpose.
- A physician examining a detainee or prisoner liable to face interrogation or torture shall pay particular attention to the confidentiality of the medical information brought to his attention; this information shall not be used for the purpose of interrogation or torture.
- A physician who witnesses interrogation or torture conducted contrary to the international conventions shall report this to the relevant authority.
- A physician shall not be present in a place where interrogation or torture are undertaken.
- A physician shall strictly maintain his professional autonomy in selecting the appropriate medical treatment for a detainee or prisoner for whom he is responsible, on the basis of his liability for the physical and mental well-being of that person.
- Where a prisoner refuses nourishment and is considered by the physician as capable of forming an unimpaired and rational judgment concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially. The decision as to the capacity of the prisoner to form such a judgment should be confirmed by at least one other independent physician.
- The Israel Medical Association undertakes to support any physician who observes these rules.

**"Do not seat on small chair" 1997**

Prison Service  
Medical Confidentiality

Chief Medical Officer  
Clinic, Shikma Prison  
Date: 3-12-97

**Medic Certificate**

Name of Detainee: Guad Al G'ab Mohammed

Medical Condition: \_\_\_\_\_

Normal

Abnormal

Diagnosis: \_\_\_\_\_

\_\_\_\_\_

Recommendations: \_\_\_\_\_

\_\_\_\_\_

Signature of Medic: \_\_\_\_\_

Medical Confidentiality

Chief Medical Officer  
Clinic, Shikma Prison  
Date: 3-12-97

**Doctor Certificate**

Name of Detainee: Guad Al G'ab Mohammed

Medical Condition: \_\_\_\_\_

Normal

Abnormal

Diagnosis: \_\_\_\_\_

\_\_\_\_\_

Recommendations: Do not seat on small chair

\_\_\_\_\_

Signature of Doctor: \_\_\_\_\_