

Submission of A report titled “[No Defense: Soldier Violence against Palestinian Detainees](#)”, by the [Public Committee Against Torture in Israel](#) (PCATI),

1- It describes the ill treatment of shackled Palestinian detainees by Israeli soldiers, as a common widespread phenomenon. identifies its scope and frequency as well as its moral, legal, and practical gravity and examines the manner in which the military system and key actors respond to it.

2- Quoting Brig. Gen Yossi, former commander of the Paratroopers Brigade:

“Unfortunately I want to admit something that we are not fully aware of. These cases are not all that exceptional in their quantity. It is simply that some of them remain shrouded in silence. Some are also committed in more sophisticated and more criminal ways... These cases, in which Palestinian detainees are beaten by soldiers and police officers, happen occasionally, to my great regret. Many of them are not the subject of any complaint and are cloaked in various kinds of conspiracies of silence. Sometimes we only learn of them years after the event, and usually only through anonymous statements from Breaking the Silence and others, through the media, or by other means.”

[No Defence Full Report](#)

3- Based on testimonies of Palestinians detainees abused by Israeli soldiers (90 cases that PACTI received in the period from June 2006 through October 2007), interviews with soldiers who participated in arrests during their military service; information provided by the Israeli army to the media; and comments by military and political figures in Israel, the report shows the variety of forms of abuse committed by Israeli soldiers against Palestinian detainees adults and minors, and points to the broader scope of these practices, its occurrences during or after the arrest.

4- Abusing Palestinian detainees by Israeli soldiers, as testimonies confirm, dates back over many decades, and there is an urgent need for attention to such phenomenon. Since the beginning of the second intifada the number of arrests has been unprecedented. Thousands of Palestinians are arrested each year, operations take place throughout the year and are executed by a large number of combat units in the Israeli military.

5- The cases discussed here are no more than the tip of the iceberg, the report says, they reflect a much broader, more common, and ongoing phenomenon that has been particularly severe over the past eight years.

6- Report Contents:

- ❖ Ill Treatment at arrest: immediately following arrest; during transport of detainee; while the detainee is temporarily held in army base; protracted ill treatment; use of dogs; ill treatment of minors. and the scope of the phenomenon.
- ❖ Illtreatment after arrest- The Israeli law: Ill treatment in military law; alternative offenses; value and punishment; superior order and the duty to protect detainees; command responsibility; coercive field interrogations.

- ❖ Failure to enforce: Military investigatory bodies; problems of forms of investigations; prosecution, convictions and punishment- soldiers and commanders; punishment and failed deterrence; possible solutions (remove investigation from Army responsibility)
- ❖ Evading the issue: Military disregard and denial; Israeli authorities silence.

Recommendations for Change

8- The State and the citizens of Israel have an obligation, and indeed an interest, to expose and stop the phenomenon of the ill treatment of detainees. The broad picture is one of failures on all levels, despite isolated efforts in various places to expose the phenomenon, mainly on the part of legal and educational functions within the military.

9- The impact of such localized efforts is limited. It is vital to overcome the disconnection between the moral legal and professional approach and the operational echelons, from the soldier in the field to every last member of the general staff. In view of the profile of this phenomenon and the functioning of the different systems as examined above, we recommend the following detailed courses of action.

A. The Army

(1) Recognition

10- The political and military echelons must recognize that the widespread ill treatment of shackled detainees is a real problem that exists in the field. They must also acknowledge that the various supervisory mechanisms for reporting, inspection, and enforcement have refrained from addressing this phenomenon. Under the supervision and responsibility of the political echelon, the military must undertake an urgent, honest, and profound examination of the situation on the ground. The results of this examination should inform urgent and systemic discussion producing immediate recommendations for action, under the responsibility of the defense minister and under the supervision of the chief-of-staff. Such recommendations must include tangible objectives for securing a drastic reduction in as short a period of time as possible, with the ultimate goal of completely eradicating this phenomenon.

11- The required recognition is not confined to the senior echelons. The process of normative change must also include discussions between commanders and soldiers of different ranks. These discussions should expose dilemmas, difficulties, and cases of ill treatment. Such a process of clarification may play a vital role in redefining what is “normal” and what is “desirable” and in clarifying new boundaries, in order to draw the reality on the ground closer to the legal and moral approach.

(2) Exposure

12- Together with the decision to embark on a course of remedial action, and as part of this process, the defense minister and the military should publicize the principal findings of the internal examination. This information should be shared with forums

of commanders and in lessons and discussions within the military, as well as in the media and in the Knesset plenum. Such public exposure is vital in order to convey a determined and unequivocal message against the phenomenon of ill treatment of shackled detainees. Public statements embody a two-way commitment, both internally within the military and externally, to the citizens of Israel as the source of sovereignty. Such statements also bind those who make them on a personal level. The general public should also be included in actions adopted to stop the phenomenon, and should be kept informed of progress and difficulties on an occasional basis. These efforts might focus on legislation, such as on Amendment No. 44 to the Military Justice

(3) Amending procedures

13- The security system must introduce orders and procedures preventing, as far as possible, the ill treatment of detainees. The Defense Ministry and the military should make clear and detailed guidelines available to commanders and soldiers. The task of arrest should be defined as a distinct action, and planned on the basis of general principles and detailed procedures that view the rights of detainees and responsibility for their wellbeing as an integral part of the operational process of arrest.

14- The following aspects should be among those addressed by the procedures: A clarification of permitted and prohibited actions regarding detainees; the regulation of the responsibility for detainees as part of the operational task – who is responsible, what is the range of responsibility, and how is responsibility transferred from one detail to another; and, in particular, an emphasis on the command and residual responsibility for abusers, in view of the frequent argument that it is difficult to locate those who commit ill treatment, and hence difficult to combat the phenomenon; the identification of the weak points at which detainees are subject to arbitrary treatment, and the neutralization of these points (for example, by means of command presence or through a controlled physical space); the prevention of contacts between dogs and detainees; and special sensitivity during the arrest of minors.

15- The application of these procedures should begin on the completion of the arrest task. The completion of an arrest will be defined as occurring only when the detainees are transferred to a proper imprisonment facility or to another body. This will prevent, at least in procedural terms, the creation of periods of time during which it is unclear who bears responsibility for the detainees' wellbeing. Accordingly, the procedures should also define the manner in which detainees are to be transferred, the maximum period of time from the commencement of the arrest task through to transfer, the nature of an "imprisonment facility," and so forth. The entire arrest task must be accompanied by a monitoring form or similar means of documentation noting the identity of those responsible for the detainee at every stage and detailing his condition – on arrest, after transportation, on transfer between military details, and so on. This documentation will be used for monitoring purposes during the course of arrest and thereafter. According to the reply of the IDF Spokesperson dated 3 February 2008 to PCATI's questions, the military already maintains such a procedure on a partial basis, and the MIU officer ensures that all detainees taken to a detention facility "[...] undergo a comprehensive and thorough medical inspection before entering the detention facility." In addition, "The arrival of the detainee at the detention facility requires the full registration of the identity of the detail that executed the arrest as a condition for transfer to the facility.

16- In any case in which the medical examination reveals signs of injury or violence, the military police officer must forward the matter to the MIU for examination.”¹⁵⁹ All that remains, then, is to extend this procedure to all stages of arrest, and to ensure that violence against a detainee results in an investigation by the MIU, rather than an “examination” that may end in a decision not to investigate the incident.

17- In order to facilitate the implementation of the procedures, the following conditions must be ensured:

- (1) The procedures must be available in writing and must be forwarded in a written format to every soldier liable to execute arrests as part of his military duties;
- (2) The procedures must be presented as part of the briefing before every arrest operation;
- (3) The procedures will not be superseded by other procedures influencing the tasks, whether as part of an unacceptable “tradition” in the military or as the result of the different operational theories applied by GSS personnel who accompany many of the arrests;
- (4) Maintaining the wellbeing of detainees will also mandate the allocation of the necessary resources for arrests, for the purpose of handcuffing, transportation, holding, and so on.
- (5) In order to enable the effective allocation of responsibility and awareness of responsibility on a real-time basis (and, in particular, the responsibility of commanders), the arrest process must be documented in an orderly manner, including details of the details participating in the arrest; the time the arrest began and ended; injuries or other unusual incidents; etc.

18- As noted, the IDF Spokesperson claims that “the IDF acts to inculcate the value of human dignity in its units” and employs various study means and in-service training courses in order to inculcate “the values of justice.”¹⁶¹ However, recognition that ill treatment is a phenomenon may be expected to change the manner in which the authorities cope with the problem, including the ways in which these study means are used and, potentially, the development of new means. Since these are practical and complex matters, the inculcation and formulation of areas of content should begin and be founded on the highest echelons.

19- Inculcation efforts should not stop the moment a soldier leaves the gates of the IDF School of International Law. The approach should be reversed – junior commanders and soldiers should be trained in the field, with the participation of senior commanders, and on the basis of the examination of real-life cases. Training in preparation for operations in the Territories should include a special section devoted to arrests and the handling of detainees. This section must emphasize the absolute prohibition against harming detainees; the responsibility of soldiers and commanders for their wellbeing; the obligation to prevent and report cases of ill treatment; and the relevant orders and procedures, once these have been introduced.

20- Training programs for soldiers and officers serving in the field should include a practical dimension relating to detainees, as well as the theoretical section. A review of the educational program currently employed by the military (see Chapter E above) shows that the division of the treatment of moral questions and operational practice mirrors the disconnection found in the field during the execution of arrests, whereby there is a wide gulf between theory and practice. Accordingly, all aspects and stages

of the arrest mission should be practiced in light of the procedures and orders as introduced, and this mission should be properly debriefed as a full-fledged operational task.

(4) Enforcement

21- As we have shown, the military system does not ensure adequate investigation of cases of ill treatment of detainees, and is reluctant to prosecute or punish offenders. Meaningful enforcement is vital in order to uproot unacceptable phenomena and is no less important than the educational aspects. In particular, acceptance of criminal responsibility for ill treatment at the command level must become the norm. The legal authorities in the State of Israel should supervise these activities and ensure the presence of mechanisms for investigation, prosecution, and penalization in order to ensure effective deterrence of those inclined to abuse detainees.

22- As long as the military continues to hold the authority for investigating instances of ill treatment of detainees by soldiers, the military enforcement system must present clear and realistic objectives relating to the exposure and investigation of offenses of ill treatment against detainees. The MIU should make immediate and substantial improvements to the investigation of such complaints. The investigations must be rapid and proactive, and must include the work of investigators with training in forensic medicine and of Arabic-speaking investigators. It must also be ensured that complainants enjoy full access to all relevant information. In order to enable an analysis of the reality in the field as reflected in complaints and investigation files, the system of information classification in the MIU should be made sufficiently sensitive to assist in diagnosing specific phenomena, and certainly more so than is presently the case.