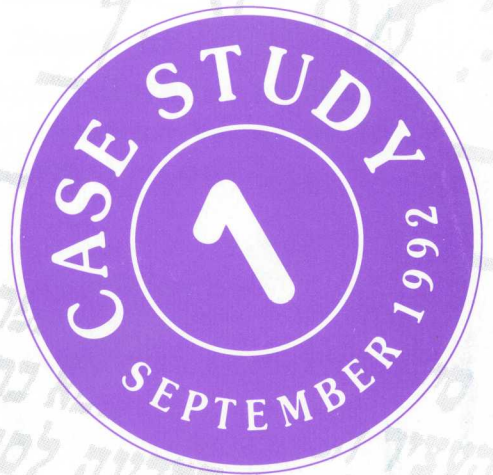


**The Death of  
Mustafa Barakat in the  
Interrogation Wing  
of the Tulkarm Prison**



**בְּצֵלֶם**

**B'TSELEM**

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**B'Tselem** - The Israeli Information Center for Human Rights in the Occupied Territories, was founded in February 1989 by a group of lawyers, literary figures, academics, journalists, and Members of Parliament. **B'Tselem** documents human rights abuses in the Israeli-Occupied territories, and brings them to the attention of policy makers and the general public. **B'Tselem's** data are based on independent fieldwork and research, official Israeli sources, the media, and data from Palestinian sources, most notably the human rights organizations PHRIC and al-Haq.

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## **The Death of Mustafa Barakat in the Interrogation Wing of the Tulkarm Prison**

*Written and Edited by:*

Yuval Ginbar and Tami Bash

*Translation by:*

Jessica Bonn

**B'Tselem** would like to thank the following organizations and individuals for their help in researching this report:

*Palestinian Human Rights Information Center (PHRIC)*

*Al-Haq, Palestinian Organization for Human Rights*

*Mandela Institute*

*Physicians for Human Rights*

*The Association of Israeli-Palestinian Physicians for Human Rights*

*Atty. Ibrahim 'Abd a-Latif*

*Dr. Edward McDonough*

*Ronnie Talmor*

*Special thanks to Atty. Tamar Pelleg-Sryck, of the Association for Civil Rights in Israel*

## INTRODUCTION

Mustafa Barakat, age 23 from 'Anabta, was arrested on the morning of August 3, 1992, and taken to the interrogation wing of the Tulkarm military prison. The following evening, he was pronounced dead by a physician.

The forensic pathologists who participated in the autopsy on August 9, 1992, Dr. Yehudah Hiss of the Abu Kabir Forensic Institute, and Dr. Edward McDonough, invited from the United States by the Barakat family, determined that the direct cause of death was an acute attack of bronchial asthma.<sup>1</sup> There were no signs of injury on the body.

On September 4, 1992, the Israeli daily *Davar* reported that the police had recommended that the State Attorney's office close the investigation file.

Barakat's death is the fourth incident this year in which a Palestinian detainee died during or shortly after interrogation.

Routine measures employed during interrogation of Palestinians include threats, sleep deprivation, beatings, tying the prisoner in painful positions, placing a sack over the prisoner's head for prolonged periods ("hooding"), and other forms of physical and emotional abuse.<sup>2</sup> Barakat's first asthma attack began during his interrogation. Nevertheless, the interrogation was continued.

Difficult questions therefore arise regarding the responsibility of the authorities in this case, and the extent in general to which they fulfill their responsibility to assure the health and well-being of prisoners in their custody.

This report endeavors to give a step-by-step account of what happened to Mustafa Barakat during the 36 hours which passed between his arrest and his decease, and addresses the difficult issues raised by the circumstances of his death.



Mustafa Barakat

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1. Dr. Yehuda Hiss, "Expert Opinion" (interim medical opinion), August 11, 1992.

2. See, B'Tselem: **The Interrogation of Palestinians During the Intifada: Ill-treatment, "Moderate Physical Pressure" or Torture?** (hereinafter, **Interrogation of Palestinians**) (Jerusalem, March 1991).

## THE COURSE OF EVENTS, AUGUST 3 - 4, 1992

The description below is based on the following sources:<sup>3</sup>

- a. Testimony given to **B'Tselem** by members of the Barakat family.
- b. Autopsy report by Dr. Yehuda Hiss of the Abu Kabir Forensic Institute.
- c. Autopsy report of Dr. Edward McDonough from the United States, invited by the Barakat family to participate in the autopsy.
- d. A preliminary investigation conducted by Atty. Tamar Pelleg-Sryck of the Association for Civil Rights in Israel, representing the Barakat family.

Between 1990 and 1992, Mustafa Barakat lived in Jordan, where he studied interior design. On July 29, 1992, upon finishing his studies, he returned to 'Anabta with his mother, Fathiya, who had stayed with him in Jordan from June 26, 1992. In a testimony taken by Bassem 'Eid of **B'Tselem**, Barakat's mother stated that during her visit with her son in Jordan, he had functioned normally, and had not complained of health problems. Barakat's father, Muhammed Barakat, testified that his son had visited the family in the summer of 1991, and had not complained of any health problems at that time either. Barakat had suffered from allergic asthma in childhood, but as far as his family is aware, he did not have any attacks after age 16.

When Barakat crossed over the Allenby Bridge from Jordan on July 29, 1992, he was summoned to appear at the Civil Administration offices in Tulkarm, and was ordered to report to "Captain Rayeq," with two photographs and his Jordanian passport. Barakat arrived at the Civil

Administration on the scheduled day, on August 2, but was sent back home and told to return the following day.

On August 3, 1992, Barakat reported to the Civil Administration at 8:00 a.m., with a Ventolin inhaler, which he had acquired on his sister's advice. His sister stated that she knew that the sack was an instrument used on all persons interrogated, and recalled her brother's attacks during childhood.<sup>4</sup>

From this point, up until Mustafa Barakat's death the following evening, shortly after 7:00 p.m., we do not, despite a comprehensive investigation, have a complete picture of the course of events.

### *The Tulkarm Prison*

The Tulkarm military prison serves two functions, operating as a holding facility to which detainees are brought directly from the place of their arrest, and housing an interrogations wing administered by the GSS. The facility's maximum capacity is 100 prisoners. On the day of **B'Tselem's** visit, there were 55 prisoners, four of them sentenced (held in the prison as maintenance workers) and the rest detainees. Thirty-four of the detainees were held in the interrogation wing, which **B'Tselem** representatives were not permitted to enter.

\* Based on information given to **B'Tselem** representatives during a visit to the facility on March 4, 1992.

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3. Both while the matter was under investigation, and after the file was closed, **B'Tselem** requested information from the Police Spokesperson. Our requests were denied. The IDF Spokesperson offered no information other than the response on page 18.

4. Presented in Dr. McDonough's opinion.

As will be made clear below, the absence of information is almost unavoidable, due to the secrecy surrounding the goings-on within GSS interrogation wings. Thus, the forensic pathologists were not given any documents or medical notes.

### **Monday, August 3, 1992**

We have no information regarding what happened to Barakat between the time when he reported to the Civil Administration and approximately 8:00 p.m., when he was brought into the interrogation room. The commander of the facility, Lieutenant Shawan, told Atty. Pelleg-Sryck that Barakat was apparently held by the GSS in the Civil Administration until he was admitted into the prison. He added that "Mustafa arrived directly [to the wing] for interrogation at 7:45 p.m. on August 3, 1992, after, of course, induction into the prison, including an examination by a medic, who had left the inhaler with Barakat."

During his interrogation, Barakat had an asthma attack, used his inhaler, and recovered. A military source close to the prison authorities stated that for two hours, Barakat was put into an IDF cell. There he was examined by a medic, and spent the night alone. The medic ordered that Barakat's condition be examined every fifteen minutes, a routine "carried out as long as he is in the hands of the IDF."

### **Tuesday, August 4, 1992**

At 9:00 a.m., Barakat was taken in for interrogation. At around 10:00, he was given a routine examination by the physician in charge, Dr. Eli Waldner. The examination took place outside of the interrogation wing. According to a GSS source quoted by doctors Hiss and McDonough, Barakat did not tell the doctor that he had had an attack during the evening. The doctor noted that he had "diffused wheezing in both lungs," and instructed that Barakat be permitted to

use his inhaler as necessary, and that an additional inhaler be held for him at the prison infirmary. The doctor did not order that the interrogation be halted, though he had the authority to do so.

The military source related that after the physician's examination on Tuesday, it was decided not to "hood" Barakat. From then on, Barakat was held without a sack over his head, with his hands tied in front of his body.

In the early afternoon Barakat ate lunch, and at 3:00 p.m. he sat in the corridor outside the interrogation wing.

At 4:05 p.m. Barakat was returned for an interrogation session that lasted until 6:05 p.m. After the interrogation, he was brought to cell number 17, where detainee Rateb 'Odeh, a resident of the village of Seida, was being held. Doctors Hiss and McDonough were shown cell 17 during their visit to the Tulkarm facility. Dr. Hiss described the cell as follows:

A rectangular cell, 293 x 183 cm, and 230 cm high, with a door to enter by and no windows. The ceiling has air openings on both sides, and there are two thin mattresses laid lengthwise on the floor.

The continuing sequence of events, according to what the GSS source told the pathologists, is as follows:

6:00 p.m. Barakat is put into the cell, and held there with detainee Rateb 'Odeh.

6:45 p.m. The guards arrive, after being called by 'Odeh, and Barakat is removed from the cell.

6:53 p.m. The medic arrives. He detects no pulse or breathing, and begins resuscitation.

7:00 p.m. Dr. Waldner arrives accompanied by three medics, who check for a pulse, administer an I.V., and call an intensive care ambulance from Netanya.

7:19 p.m. The intensive care ambulance arrives, and attempts are made to resuscitate Barakat.

7:35 p.m. Barakat is pronounced dead.

***Medical Opinion of Dr. Joel Kreif,  
Director of the Lung Institute, Ichilov Hospital***

Asthma is a disease characterized by a contracting of the bronchial tubes, following exposure to certain elements such as dust and other allergenic substances, or catching cold. This narrowing of the bronchial tubes interferes with the functioning of the respiratory system.

Some 10% of the population suffers from asthma, in varying degrees. The ailment may be mild, with light, sporadic attacks, or much more severe, to the point of a chronic condition, in which the person is constantly suffering.

An asthma attack may take the form of shortness of breath, occasional coughing, occasional congested or rapid breathing, and trembling.

Emotional trauma or severe anxiety may play a role in creating the conditions for an attack, but this role is not absolute.

Conditions of imprisonment and interrogation cannot themselves constitute a direct cause of attack.

There are two types of dangerous attacks:

- a. a short, severe attack, extremely strong contractions of the bronchial tubes, likely to cause sudden death brought about by suffocation. The causes of such an attack may be allergic, but in some cases, the causes are not fully clear to us. This is a rare but recognized phenomenon, particularly among young people.
- b. a series of attacks which grow increasingly worse, or a steadily worsening state of attack.

In both cases, it is important that the sick person be in possession of an inhaler, which can halt the attack at its onset, or ease the situation.

There is no need for special treatment or conditions for each prisoner or person being interrogated who declares that he has asthma. One should, however, let such a prisoner retain his inhaler, and refrain from covering his head or tying his hands.

If a person in interrogation has an attack, he must be examined by a physician, and over a few hours he must not be interrogated, pending an additional examination by a doctor. The doctor will diagnose whether the attack is mild and passing, or more severe and persistent. It should be understood that in the second case, the sick person should be treated, and if necessary, hospitalized.

## **Interrogation methods employed against Barakat**

As mentioned, GSS interrogators employ various methods of physical and emotional abuse against detainees.

According to data collected by **B'Tselem** and all other Palestinian and Israeli organizations which have investigated the matter, "hooding" is a standard procedure used against detainees in interrogation, usually before the beginning of interrogations or between them, and sometimes during interrogation.<sup>5</sup> All asthmatic detainees interviewed in a recent, yet-to-be published study by al-Haq, testified that they had been hooded.

According to the GSS source, the first day's *interrogation* took place without hooding. He did not provide any information concerning the period *prior* to the interrogations, or *between* sessions. Only regarding the second day, following the physician's examination, did he state that Barakat was held without a hood.

The military source said that on the second day of Barakat's detention, it was decided not to hood him. Until then, they "may have" hooded him.

The prison commander told Atty. Pelleg-Sryck in this context that: "The GSS has interrogation rooms. I don't set foot inside them – let them tell you."

From the above, we can conjecture that Barakat was hooded at least on the first day

of his interrogation. In addition, since on that day Barakat received standard treatment, it is reasonable to conjecture that other harsh measures for applying pressure on the prisoner were used during his interrogation that day.

### **Excerpt from the testimony of Amjad Jum'ah Hassan Hofi**

**resident of the Tulkarm refugee camp, taken by Atty. Tamar Pelleg-Sryck in the Tulkarm prison facility on September 6, 1992.**

I was arrested on June 1, 1992, and was in interrogation until July 29, 1992.

At first they ask a question, and if you don't answer, they punch you in the upper belly. In the "shabah" [a position in which the prisoner is hooded and tied with his hands behind his back] you stand sometimes for an hour, sometimes for days – it varies depending on the interrogator.

A sack on your head gives you headaches, and makes you itch and sweat. They also put you with your hands tied behind your knees for a long time, sometimes on a low chair, and they rock you. If you are in the "shabah" you cannot sleep at night.

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5. See B'Tselem, **Interrogation of Palestinians**, pp. 54-56.



## OBLIGATIONS OF THE PRISON AUTHORITIES

From a legal standpoint, as long as a person is held in detention, the authorities under whose jurisdiction he has been arrested must safeguard his health and well-being. This principle is expressed, *inter alia*, in Article 322 of the Penal Law, which stipulates:

It is the duty of a person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention or any other cause to withdraw himself from such charge and who is unable to provide himself with the necessaries of life [...] who has such charge to provide for that other person the necessaries of life and to take care of his health and he is held to have caused any consequences which result to the life or health of the other person by reason of not fulfilling the said duty.

In a High Court ruling, it was stated that:

When a person is held in a prison facility, the prison authorities feel that the responsibility for his well-being rests on them... . The responsibility for prisoners' well-being is not cast on the petitioner alone, but on all the public authorities vested with this responsibility, and if they receive information regarding a risk which is likely to be realized, they are obliged to consider, in light of the available measures, what is necessary in order to protect whomever requires protection.<sup>6</sup>

It is also the responsibility of the authorities to safeguard the well-being, health and life of those prisoners and detainees who are physically or emotionally frail, or who have special susceptibilities. Naturally, there is the danger that a "frail" person will suffer

physical or emotional collapse under conditions which to a "regular" person would not be injurious to the same extent.

In the case of persons with special susceptibilities, such as illness, the "thin skull" principle applies. According to this principle, an individual, when employing violence which against a "regular" person would not bring about a severe injury, causes serious, even fatal consequences, to a person with special susceptibilities, that individual cannot claim in court that the victim had a "thin skull."

In the case of Barakat, the prison authorities were aware at a very early stage that the detainee was asthmatic. It was the responsibility of the authorities to afford him the necessary care, medical and otherwise, in order to eliminate the possibility that he might have an asthma attack, and moreover, to refrain from any action that might be injurious to his health, particularly his respiratory system.

Following Barakat's first attack, which occurred on the first day of his arrest, there could be no doubt that Barakat indeed ailed from asthma, thus increasing the obligation to take steps to protect his health and life.

The facts indicate that the prison authorities neglected their responsibility: only on the second day of his imprisonment was it decided that Barakat would not be hooded during his stay in the interrogation wing. The series of interrogation sessions which began before he was examined by a physician were not terminated after his asthma attack, and continued until a short time before the attack which caused his death.

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6. H CJ 324/86, *Hamed N. v. Commander of IDF forces in the Judea and Samaria area et al.* Piskei Din 40(3) 361.

## GSS INTERROGATION WINGS

Mustafa Barakat was held in the GSS interrogation wing in the Tulkarm military prison facility.

GSS interrogation wings, where detainees are held during the period of their interrogation, exist in a number of military prison facilities and in some Israel Prison Service Jails in the territories. The GSS administer these wings with complete autonomy, and the goings-on there are shrouded in secrecy.

In response to a parliamentary interpellation by MK Dedi Zucker, regarding the conclusions of the commission headed by Maj.-Gen. (Res.) Vardi (appointed in May 1991 to look into **B'Tselem's** complaints regarding methods of interrogation used against Palestinians held in IDF interrogation facilities in the West Bank and Gaza), then-Defense Minister Moshe Arens, wrote on April 4, *inter alia*: "Instructions have been formulated which stipulate the exact realms of responsibility of the IDF, the General Security Service, and the Israeli National Police."

It appears, however, that there is no clear demarcation of authority and hierarchy between the bodies which hold detainees: the IDF, the Israel Prison Service, and the police, and the GSS, responsible for interrogation wings.

Prison facilities in the territories operate under orders issued by the OC regional commanders.<sup>7</sup> Commanders of the military prisons are subordinate, as IDF officers, to the military commander of the region. Police personnel in the territories are subordinate to the same commander, under a military order.<sup>8</sup> It is the military

commander who appoints the prison wardens in the area.

In contrast, GSS personnel are not in any way subordinate to the military commander. Article 2a of the Order Regarding Security Force Members Operating in the Area (West Bank Region) (No. 121) 1967, stipulates that: Regarding [members of] the security service, the superiors [from within the service] shall constitute the responsible authority which must be obeyed.

Thus, the GSS administers wings within the prison facilities and jails, but is not subordinate to their administrators or commanders. The military legislation makes specifications for the wings of the facilities, but does not mention the interrogation wings. As far as we are aware, no legal document has ever been published which regulates GSS activity in the prison facilities, or which delineates the boundaries of GSS authority and responsibility in relation to those of the IDF or the Israel Prison Services in their respective facilities.

There is no prison administered by the GSS, and the public impression is that prisons in the territories are run by the military or the Prison Service. Ostensibly, detainees are held under authority of the IDF or Prison Service, which are responsible for food provisions, sleeping arrangements, meetings with lawyers, etc. Yet in practice, GSS personnel are entrusted with the detainees under interrogation, and it is they who make most of the decisions relating to the detainees. They have the authority to determine whether a detainee may meet with his attorney, whether he will receive food, etc.<sup>9</sup>

7. Order Concerning Administration of Prison Facilities (West Bank Area) (No. 29), 1967, and parallel order issued in the Gaza Strip.

8. Order Concerning Police Forces working in Cooperation with the IDF (West Bank Area), (No. 52), 1967.

9. See B'Tselem, **The Interrogation of Palestinians During the Intifada: Follow-Up to March 1991 B'Tselem Report**, March 1992, p. 46.

In a visit of **B'Tselem** staff to the Far'ah Prison on February 17, 1992, Major Shlomo Gispan, head of the Department of Detainees at the Chief Military Police Officer's Headquarters, explained that in conformance with what was stated in the Vardi report, "the authority now working with the GSS is an officer with the rank of at least Major, so that unlike in the past, he can stand up to them."

This recommendation and explanation testify to the lack of clear arrangements for authority, responsibility and hierarchy.

In light of the fact that the GSS is not subordinate to the IDF, it is doubtful as to whether even a Major has the authority to dictate prohibitions or allowances for GSS personnel in the facility. The question of authority is even more problematic regarding the Tulkarm facility, in which the interrogation wing is not under IDF control, and the prison commander is a Lieutenant.

## Isolation, Secrecy, and Violence in Interrogation

The problems described above are compounded by the conditions in which Palestinian detainees are interrogated, and the methods employed in their interrogation.

### A. Isolation

The military orders stipulate that Palestinian detainees who reside in the territories may be held for up to 18 days before being brought before a judge to extend their detention.<sup>10</sup> They may be prevented from meeting with counsel for a period of 15 days, which is often extended to 30 days. Representatives of the International Committee of the Red Cross (ICRC) may meet with the detainees only from the 14th day of their detention.

Such a long period of isolation is unparalleled in the West, and as early as 1987, the Landau Commission recommended that it be shortened to eight days. This recommendation has not been implemented to this day.

### B. Secrecy

The interrogation wings are shrouded in complete secrecy. Lieutenant Shawan stated that he does not enter the interrogation rooms. The military physician, with whom **B'Tselem** staff spoke during their visit to the facility, also said that he does not enter these rooms. Human rights organizations, including ICRC representatives, and all other groups outside the security establishment, are not even authorized to visit the cells in which the detainees sleep, and the places where they eat, bathe, etc.

It should be noted that thousands of Palestinians suspected of security offenses have passed through and have seen the places in question, in any case rendering it impossible to maintain secrecy.

In a visit to the Tulkarm prison facility by **B'Tselem** staff on March 4, 1992, Major Gispan described the interrogation room as a "normal room, with pictures, with ventilation." When asked why, in view of this, **B'Tselem** staff would not be permitted to visit the site, he replied: "There is an ethical problem here – one doesn't enter the interrogation wing."

As long as these wings are closed to public scrutiny, the suspicion remains that these walls of secrecy were intended to conceal deeds that the authorities would rather keep hidden from public view.

**B'Tselem** reiterates the demand that the GSS interrogation wings be exposed to review, including the scrutiny of human rights organizations. Such exposure would not damage security needs.

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10. On September 20, 1992, the Ministerial Security Committee decided to reduce this period to eight days for minors and for those suspected of disturbing the public order.

**Mustafa Barakat was the fourth Palestinian detainee since the beginning of 1992 to die during or soon after interrogation. The three prior cases were:**

1. **Mustafa 'Abdallah Mustafa al-'Akawi**, resident of Wadi Joz, age 36, died in his cell in the GSS interrogations wing of the Hebron prison, on February 4, 1992. That morning, 'Akawi had been brought before a military judge for extension of his detention, and had complained to him of being tortured by his interrogators. The judge discerned wounds on 'Akawi's body, ordered that he be given a medical examination, and extended his detention by 8 days.

In the autopsy, in which American pathologist Dr. Michael Baden participated, it was determined that 'Akawi died of a heart attack, and that he had ailed from cardiac arteriosclerosis. According to Dr. Baden, 'Akawi's death "was precipitated by the emotional pressure, physical exertion and freezing temperatures he was forced to withstand." The investigation was closed on the grounds that "the pathologist's post mortem examination did not suggest a connection between the interrogation and/or its character, and the heart attack that caused his death." (Letter of Eitan Haber, Advisor to the Prime Minister and Manager of his Office, to **B'Tselem**, August 6, 1992).

2. **Samir 'Odeh Khamis 'Omar**, age 17, resident of the Shati refugee camp, died on May 31, 1992, in the Shifa Hospital in Gaza, ten days after being released from a 9-day interrogation. Military sources said that 'Omar was in healthy condition when he was released. The pathologic report, conducted by Dr. Jorgen B. Dalggaard of Denmark, who was invited by the 'Omar family, stated that "the cause of death was not discovered during the autopsy."

According to a letter from Eitan Haber to **B'Tselem**, an investigation of the matter was carried out, and the findings were brought to the State Attorney's Office.

3. **Hazem Muhammad 'Abd a-Rahim 'Eid**, age 23, resident of al-Bireh, was found dead in his cell in the Hebron prison on July 8, 1992. 'Eid was arrested on June 22, 1992, and held in the interrogation wing of the Ramallah prison. On July 5, 1992, he was transferred to Hebron prison, where he apparently committed suicide by tying a blanket around his neck.

Eitan Haber, in a letter to **B'Tselem**, stated that "apparently the detainee had emotional-internal reasons for suicide for reasons it is not appropriate to specify here." The investigations file was closed.

### C. Violence in Interrogation

Legal sanction for the interrogation methods which the GSS may employ against Palestinians derives from the secret appendix of the 1987 Landau Commission Report. In the non-secret part of the report, the commission sanctioned the use of "a moderate degree of physical pressure" alongside psychological pressure, during GSS interrogations.

The commission stipulated that "the interrogation be far from the use of physical or mental torture, maltreatment of the person being interrogated, or the degradation of his human dignity..." but extensive investigations conducted by **B'Tselem** and other human rights organizations have proven that in practice, methods of interrogations which constitute torture by any international standards, and which violate international law, are used as a matter of routine.<sup>11</sup>

In May of 1992, ICRC issued a press release entitled, "Israel: ICRC Position on Treatment of Palestinian Detainees Under Interrogation." The press release stated,

*inter alia*, that "to obtain information and confessions from the detainees, means of physical and psychological pressure are being used that constitute a violation of the Convention [the Fourth Geneva Convention]."

This press release was an unprecedented step by ICRC, whose policy is to refrain from publicizing any information it gathers during the course of its work. In this case, ICRC deemed it appropriate to deviate from its standard practice, in light of the severity of the violation and the systematic use of these interrogation methods.

Violent interrogation may be injurious to the physical and psychological well-being of the detainee. It is difficult to understand how the authorities can fulfill their responsibility to protect the physical and psychological well-being of detainees, and at the same time employ against them officially-sanctioned violence.

We believe that interrogators may not be relieved of their responsibility if the authorities choose to use violence in interrogation, and the detainee dies.

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11. See B'Tselem, **Interrogation of Palestinians. Israel and the Occupied Territories: The Military Justice System in the Occupied Territories**; See also **Detention, Occupation and Trial Procedures**. Amnesty International, London, 1991. **Israel's Use of Electric Shock Torture in the Interrogation of Palestinian Detainees**, Jerusalem, PHRIC, December 1991. **Human Rights in the Israeli-Occupied West Bank and Gaza Strip in 1991**, **Human Rights Watch World Report 1991** (New York, Human Rights Watch, 1992) al-Haq, **A Nation Under Siege: Annual Report on Human Rights in the Occupied Territories**, 1989. (Ramallah, 1990).

## OBLIGATIONS AND POWERS OF THE MEDICAL STAFF

International law places special responsibility on the medical staff for protecting the physical and mental health of the prisoners, and forbids medical personnel from actively or passively participating in torture or cruel or humiliating treatment of detainees.

According to the "Tokyo Declaration," adopted by the World Medical Association in 1975:

1. The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedures is suspected, accused, or guilty, and whatever the victim's beliefs or motives, and in all situations, including armed conflict and civil strife.
2. The doctor shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment.

The "Principles of Medical Ethics," adopted by the U.N. General Assembly, also stipulate that certification or participation in the certification of the fitness of prisoners or detainees for any form of treatment or punishment that may adversely affect their physical or mental health, constitute a violation of medical ethics.<sup>12</sup>

Dr. Ram Yishai, Chairman of the Commission on Ethics of the Medical Union, said recently concerning the GSS' use of psychiatrists during the interrogation of

Palestinian detainees, in order to cause them to confess to crimes attributed to them:

We study medicine in order to help people in distress. Any other use, especially if it is against the free will of the patient, contravenes the Tokyo Convention, adopted by the World Medical Association.<sup>13</sup>

In light of the sanction given by the Landau Commission to "moderately" violent measures during interrogation, the medical staff is in effect determining whether a detainee is fit to endure a violent interrogation.

Yet as far as we know, the medical staff is not familiar with the secret appendix of the Landau Report, which details the violent measures permitted in interrogation. It is therefore not clear on what ground the staff determines whether a detainee is fit for detention which includes violent interrogation.

In any case, a medical staff which determines a person's fitness to endure physical and emotional harm, even if it be "moderate," violates medical ethics as formulated in the abovementioned conventions.

In this case, it was a medic with only a few months of medical training who determined Barakat's fitness for interrogation. Only the following day, after two interrogations, in one of which Barakat had his asthma attack, was he examined by a physician who determined, after a routine check-up, that he was fit for detention.

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12. "Principles of Medical Ethics Relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," adopted by the U.N. General Assembly on December 18, 1992.
  13. Hillel Cohen, "Physicians' Association to Discuss the Employment of Psychiatrists in GSS Interrogations," Kol Ha'ir, September 4, 1992.

According to the commander of the Tulkarm prison, there is no concept of a status "fit for interrogation." In contrast, a physician has the authority to abort interrogation of a detainee for medical considerations. In this case, the doctor did not use this authority, despite that he observed "diffused wheezing" in Barakat's chest, and knew, or should have known,

that Barakat had suffered an attack the evening before the examination.

It should be noted that even if the physician has the authority to halt an interrogation, he may not enter interrogation rooms, and therefore has no opportunity to keep track of the detainee's state of health, or to assure that his instructions are indeed being carried out.

## CONCLUSIONS AND RECOMMENDATIONS

Mustafa Barakat, a young Palestinian, 23 years of age, was arrested in full health, and died from an asthma attack less than 36 hours later, in the interrogation wing of the Tulkarm prison.

The following conclusions emerge from this report, and from other information gathered by **B'Tselem**:

1. The interrogation wing in which Barakat was held is controlled and supervised exclusively by the GSS. The prison commander, legally responsible for the facility, cannot stipulate what GSS personnel operating on the grounds of the prison facility may or may not do. The interrogation rooms in the wing are closed to the commander of the prison and his staff, including the physician in charge.

2. In the interrogation wing where Barakat was held, violent measures, some of which constitute torture, are still employed.<sup>14</sup> It is reasonable to assume that some of these measures were used against Barakat at least on his first day there.

3. In accordance with prison procedure, Barakat was formally inducted into the prison after being examined by a medic, and his interrogation began at that point. During the first interrogation, Barakat had an asthma attack. Only the next day was he given a routine examination by a physician, in which he was certified as fit for detention.

4. Certification of a detainees's fitness for imprisonment includes certification for interrogation. In light of the formal sanction given to interrogators to use violence, the

medical staff in effect certified Barakat's fitness for violent interrogation.

5. As stated, a physician is forbidden from entering GSS interrogation rooms. Thus, it was impossible for the physician in charge to properly monitor Barakat's health.

6. The fatal attack occurred very shortly after the conclusion of the last interrogation session (45 minutes at the most).

Barakat had not suffered from asthma for many years. Would he have had a fatal asthma attack were it not for his interrogation? Is it reasonable to assume that there was no causal relationship between the methods of interrogation and his death? It should be recalled that the illness in question is largely influenced by psychosomatic and allergenic factors.<sup>15</sup>

No response to these questions has been received to date from the official sources. The police recommended that the investigation be closed.

The case of Mustafa Barakat is conspicuous because it ended in death. Yet its circumstances are in no way unusual. Everything that happened to Barakat, from his imprisonment until his death, was in the framework of routine procedure. Mustafa Barakat had a special susceptibility and he did not survive.

Routine procedure includes imprisonment without contact with the outside world for two weeks, the absolute prohibition on persons from outside the system from visiting interrogation wings, the extensive freedom of activity afforded the interrogators and the formal sanction for use

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14. See, for example, testimony of Amjad Hofi, above, and the **B'Tselem** report and follow-up on torture.

15. See medical opinion of Dr. Yoel Kreif, this report, p. 7.



of violence in interrogation, and the lack of clarity regarding realms of authority and jurisdiction between the prison authorities, the GSS and the physicians. In addition, the role of the medical staff raises difficult questions of medical ethics.

These conditions, combined, create a situation in which the security and health of those interrogated is by no means ensured, in absolute contradiction to the requirements of international and Israeli law.

Since the beginning of the Intifada, there have been four cases in which Palestinians have died during or soon after interrogation, a number which, in our opinion, requires that a series of immediate steps be taken:

- a. Shortening the period that a detainee may be held before extension by a judge, to 48 hours, as is the law in Israel.
- b. Allowing detainees to meet with their lawyers soon after arrest.
- c. Annulment of the Landau Commission's 1987 sanction on use of violence against detainees; implementation of a total ban on any form of torture during interrogation of detainees; and establishment of a deterring punishment for those accused of

transgressing this ban.

d. Assuring that prison medical staff is fully aware of the weight and gravity of its responsibility for the health of the prisoners.

e. Removal of obstacles blocking medical staff's access to detainees; implementation by all relevant authorities of the medical staff's instructions relating to detention or its conditions.

f. Formulation of explicit legislation which obligates physicians to act according to the norms of medical ethics.

g. Opening detention and prison facilities, and all their sections, to periodic scrutiny by human rights organizations and other outside groups.

h. Enforcement of the medical and prison staff's obligation to report every incident of humiliation or ill-treatment of detainees.

Only a change in the situation in the spirit of the above recommendations can assure against recurring cases of death in prison facilities in general, and interrogation wings in particular.

The Israeli government, which declared its dedication to human rights, has a responsibility to change the situation as soon as possible.

IDF Spokesperson  
Information Branch  
September 22, 1992

B'Tselem - Yuval Ginbar

re: B'Tselem Report on the Death of Mustafa Barakat

The report which you sent to us relates mostly to the incident of Mustafa Barakat's death. The case of Barakat's death was immediately investigated by the Israeli National Police in accordance with the procedures, and was transferred to the State Attorney's Office.

Sincerely,  
Avital Margalit, Capt.  
on behalf of the Head of the Information Branch

September 24, 1992  
3010  
Fax 02-617-946

B'Tselem  
Keren HaYesod 18  
Jerusalem 92-149

re: Case Study, September 1992

Dear Friend,

I received your report only on September 23, 1992. In light of the limited time remaining for me to review the subject before publication, I will relate to it in a general manner, and should the need for more details arise, I will do so at a later date.

As stated in the report, the Declaration of Tokyo of the World Medical Association prohibits all doctors from participating in any manner in torture and/or cruel and/or degrading procedures, as defined in the Declaration of Tokyo, the complete text of which is enclosed.

The Israeli Medical Association, as a member of the World Medical Association, accepts the Declaration of Tokyo, and considers it as binding for every physician in all circumstances.

It should be emphasized that it is the task of every physician to assure the health of the patient in any circumstances, and to not serve any other interests.

It should be noted further that if you should have any facts regarding a doctor and/or doctors who have not acted in accordance with these rules, we will proceed in the framework of the Ethics Committee.

Sincerely,  
Dr. R. Yishai  
Chairman, Ethics Committee

בִּזְעָלָם

**B'TSELEM**

The Israeli Information Center for Human Rights in the Occupied Territories  
18 Keren Hayesod St. Jerusalem 92149. Tel. 02/617271, 617274, Fax. 02/617946

**מרכז המידע הישראלי לזכויות האדם בשטחים**

רחוב קרן היסוד 18, ירושלים 92149. טלפון 617274, 02/617271, פקסי 02/617946

**"بتسيلم" مركز المعلومات الاسرائيلي لحقوق النسان في الاراض المحتلة**

شارع كيرن هيسود ١٨ القدس ٩٢١٤٩. تلفون ٦١٧٢٧٤/١ (٠٢)

ISSN 0792-8114

Graphic Design: Yael Boverman