



Press Release

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## **In spite of firm statements against the use of torture, Israel's High Court of Justice refuses to recognize the torture used in interrogation**

**Yesterday the High Court of Justice refused to recognize so-called "pressure methods" as torture in the case of Asad Abu Ghosh, who underwent severe torture in his interrogation; claiming that the Attorney General's decision should not be overturned. In September, in a hearing regarding this case, the retiring head of the HCJ Judge Miryam Naor said: "Torture cannot be permitted. Necessity does not justify torture."**

The HCJ decided yesterday (Tuesday) to reject the petition of Asad Abu Ghosh, represented by the Public Committee Against Torture in Israel (PCATI). The petition asked that the court recognize and take steps to bring to justice those accountable for the torture of Abu Ghosh. The petition was backed by legal-medical opinions confirming the severe physical and mental damage caused to Abu Ghosh.

The HCJ accepted the decision of the Attorney General not to open a criminal investigation against the interrogators, stating that the decision "does not suffer from an extreme lack of reasonableness". Since 2001 over 1,100 complaints have been presented to the Attorney General alleging the use of torture in Internal Security Apparatus (ISA) interrogations; to date not a single criminal investigation has ever been opened.

In a hearing held in September in the case of Abu Ghosh, President-emerita Naor said: "Torture cannot be permitted. Necessity does not justify torture." In the same hearing, Judge Shoham said: "There is no 'relativity-equation' according to which if the necessity is greater, torture is justified." And yet, in spite of these sayings, in his ruling Judge Shoham writes that the court has decided not to overturn the Attorney General's decision.

In a further paragraph Judge Shoham writes: "The definition of certain interrogation methods as 'torture' is dependent on concrete circumstances, even when these are methods recognized explicitly in international law as 'torture.'" This statement goes against the HCJ ruling of 1999, where the HCJ decided that certain methods are absolutely prohibited as torture.

The Public Committee Against Torture responded: "In spite of the agreement with the absolute prohibition on torture, to which Israel is obligated according to its own HCJ ruling of 1999 and international law, the court's regrettable decision has followed the automatic impunity given to torturers in Israel. Such a ruling permits *de facto* use of torture methods, some of which have already been forbidden by the HCJ in 1999. It also blocks the way for victims who have suffered from physical and psychological trauma to seek redress, and denies the needed moral change in the Israeli society: the cessation of torture."

Judges Shoham's refusal to accept the absolute prohibition on certain methods, which had been employed against Abu Ghosh, is also difficult to reconcile with the statement of President-emerita Naor in the conclusion to the ruling: "Indeed, in our legal system there is an absolute prohibition on the use of torture. This prohibition has no exceptions and no allowances."

Abu Ghosh was interrogated in 2007 by the ISA (Shabak). During his interrogation he was subjected to severe mental and physical violence including beatings, being thrown against a wall, stress positions including the "banana" position, bending back fingers, sleep deprivation, and extreme mental duress.

In July 2012 the Public Committee Against Torture in Israel (PCATI) petitioned the HCJ, represented by the offices of Adv. Ben-Natan-Pomeranz. The petition asked that the Attorney General be instructed to open a criminal investigation against the interrogators and charge them. PCATI appended to the petition the expert legal-medical opinion of two doctors and a psychologist, who agreed that Abu Ghosh's experience caused him severe pain and suffering and constitutes torture under the International Convention Against Torture. In its response, the state admitted that the interrogators used "certain pressure methods" but refused to define these actions as torture.

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