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There Are No Tortures In Gaza

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WHEN SUFFERING IS INTOLERABLE and yet interminable, there comes torture. When pain is accumulating and one's body and soul cry, 'enough,' and the thing—the torturing thing—goes on, there is torture. The thing colonizes one's space of experience, steals one's time, grabs one's expectations, and contracts one's span of emotions to a single yearning—a yearning for the thing to go away. But it stays. It grows out of proportion, detached from that to which it belongs—a body, an instrument, memories, its place in one's home or one's heart—and assumes an overwhelming presence, which becomes one with the presence of suffering itself, and from which one cannot disengage.

The torturing thing may be anything. It requires no intent to torture, no human presence, not even an invisible hand. It may be the neighbor's dog that barks all night and drives you mad, or a dripping faucet in the kitchen when you are too tired and weak to get up and shut it off. But even then, when torture is completely anonymous, the torturing thing is always too close. It is its closeness that is intolerable, its immediate presence, which soon becomes all too familiar. There is hardly any situation of torture without the propinquity of something very familiar, without the intimacy of a room, a neighbor, a friend, or a lover. Palestinian prisoners and detainees whose reports about their tortures have been collected diligently by various human rights organizations always know the names or nicknames (it does not really matter) of their torturers. They often know a lot more about them: the smell of their body or breath, the feeling of a sweating hand on one's skin, the way a face changes expressions from irony to rage or from concern to indifference. The torturers, obviously, know much more about their victims and what they know they often put to use in order to manipulate their victims, intimidate, scare, and humiliate them, improve the method of their torture, extend its duration, and expand its impact. They know, and they care for details. Torture is not only a moment of proximity to the other but a form of care for the other.

The torturer comes very close, scraping or penetrating the surface of the victim's body, peering through the halls of his or her soul. Sometimes he is all over, sometimes he is inside, in-forming and de-forming, and even when he leaves something of him refuses to go away. His is a very

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special way of being with an other, which has its own conditions. Today, torture usually takes place behind closed doors, and even when it occurs in the open, in well-orchestrated ceremonial events or in unexpected bursts of violence, a kind of hallowed space separates the torturer(s) and their victim(s) from the spectators. Like games and art, the festival and the ritual, contemplation or prayer, the display of torture interrupts routine, everyday activities. Because it is violent it risks a stable economy of violence and threatens the political order that sustains it. Hence the site of torture must be secluded, and this seclusion should endure long enough. It usually takes time to torture; one blow is not enough. It is usually a matter of the lingering effects and their accumulation, and of keeping the tortured from trying to take distance and disengage from the source of suffering.

Being together in a closed space over a relatively long period of time the torturer and the victim become emotionally engaged with each other, although never in a symmetrical manner. A posture of indifference may be a means of torture, but the one who is really indifferent, oblivious to the situation of her victim or to his or her very existence performs the role of torturer poorly. Torture requires close attention to the way a victim sits and stands, breathes and shouts, is looking at and listening to. The torturer must be present at the side of his victim, be next to and with him, at least for a while, in a relation of intimacy in which the one is falling apart while the other indulges in pleasure, or is dutifully doing his job, bravely overcoming his shame and disgust.

The kinds of torture, types of motivation and justification for torture, conditions that make them possible, and effects they have on victims and victimizers vary and are relative to specific historical, political and cultural circumstances. But across all of these differences, torture remains a form of care for another, a special concern for and interest in the victim's body and soul. At stake is first of all the life, even a certain well-being of the victim. Torture is not a burst of formless violence and it cannot take place if the victim dies too early; no justice, pleasure, or information would be gained or extracted. Hence, the exercise of violence must be well-controlled and artfully limited (but not too constrained) in order to endure, and to torture by its very endurance. The strictures of the Law, disciplinary regulations, and physicians' instructions may all play a role in the art of torture by setting limits and forcing the imaginative torturer to play within them without stopping or losing the game.

The victim should not die too early. Once this is assured, concern for and interest in the tortured other go elsewhere. There is something else about him or her that matters, something about what he feels, knows,

thinks, cares for, something about her identity and deeds, his sins or intentions, or simply something about her singular appearance. This something could not simply be taken away, grabbed or extracted from the other, either because he does not want to give it away, or because the torturer takes all his pleasure or sense of justice from not immediately seizing it. Without a strong interest in and sometimes an attachment to this thing about the other, torture would soon end up in killing, forsaking, or indifference, putting an end to the other or to the special relation to the other. The victim of torture would then become just another person to be executed, expelled or excused, or simply sent back to his place among the rank and file. Torture is personal. It presupposes the recognition of the other as a singular individual; it needs the face of the other, her presence of mind, not only her body.

But not always, of course, not always. In front of some of the checkpoints the Israeli army planted throughout the West Bank in the Occupied Palestinian Territories, there are open waiting areas encircled by high fences. Those who operate the checkpoints often think of them as a kind of border control. One must pass through a gate with rotating bars first, then through the explosives detectors, and then must present his or her documents to an Israeli soldier who sits behind a wall in a large hall and observes the passenger through a small screened opening from the height of his elevated seat. Only one person can cross the rotating bars at a time. Armed soldiers surround the closed waiting area and take positions within the hall where the check takes place. Many women and elderly people are crowded into the waiting area—young men hardly try to pass for they rarely have permits—along with many babies and young children. Many people carry heavy sacks with their belongings. Passing through the gate is slow and interrupted quite often. There are times of the day and days of the year when the waiting area becomes very crowded. Those who enter it cannot go backward, but neither can they move forward. In fact there are times they cannot move at all, and sometimes they can hardly breathe. The people who are caught inside try to help each other, up to a point, but there is not much they can do. They are squeezed, they are pushed, they are hurt by the fence or by objects other people carry. Their hearts go out to their screaming or crying children whom they cannot help and whom they often cannot carry any longer. They are thirsty and angry, humiliated and desperate. Every once in awhile someone almost suffocates or faints. Time elapses very slowly, and there is nothing they can do to release themselves from their cage. Every part of their body cries, “stop,” and yet they hardly cry or shout or speak at all, not so much for fear of the soldiers as for respect for their suffering fellows. Their

forced passivity and speechlessness only add to their agony. For many, suffering becomes so intense that they cannot take it any longer. It is absolutely intolerable, and yet it goes on. This is precisely the moment that suffering turns into torture.

The checkpoints are not meant to torture. No one gains anything—neither pleasure, nor justice, nor information—from the torturous process. When people are tortured at the checkpoints, it is not because someone who cares for someone in particular intended this to happen but because no one cares for anyone at all. The waiting area lacks the moment of recognition, the intimacy, and the particular interest in the victims that usually characterize torture. The soldiers and security agents that run the facility are quite indifferent to those who wait outside, at least as they remain within the closed area and pose no threat; they care only for those who have passed the rotating bars, and then mainly for their papers and identity. The passenger's suspicious intentions or the hidden weapons and explosives they might carry become objects of concern only after the passengers have crossed the bars. While waiting in the closed space, people are completely ignored. They may be anyone, they may be happy or miserable, they may blow themselves up. No one really cares. But this is precisely the time and the site in which torture takes place.

This type of unintended torture happens occasionally in tightly controlled and closed spaces where people are forced to remain despite deteriorating conditions. During the years 2002–2005, scenes like this happened quite regularly when the new regime of movement was imposed on Palestinians in the Occupied Territories as part of Israel's response to the second Intifada. The gates in the fence that encircle Gaza were often closed completely. The West Bank was sliced into "cells" separated from each other, and permits of all kinds were required in order to move even between the cells, let alone to enter or leave the West Bank. Permits were given only to those who were not declared "prevented for security reasons," and who had permission to go to the few offices where permits are requested and distributed. Closed spaces, long, idle hours of waiting that disrupt everyday movements, crowded waiting zones, indifference of the soldiers at the checkpoints—these were all part of the system. But torture was not. It was an unintended consequence of the new regime of movement, like the death of those sick and wounded forced to wait for hours, of newborns who die because their mothers were forced to wait or were even turned back while already in labor.

Complaints about the cruelty of the checkpoints mounted; local and international organizations, journalists and diplomats filed numerous reports. The reports were mostly formulated in terms of human rights

violations and the lack of proper means to deal with “humanitarian cases.” Since Palestinians’ movement within their territory, the daily walk to school, the drive to work or to visit friends have all become dependent on the situation at the checkpoints and could be suspended at any moment, the right to move has become a humanitarian issue and the “humanitarianization” of one’s situation has become the main reason for granting permits and a common strategy to get them. Since such requests have often been refused, legal appeals have been filed and accumulated.

The judicial regulation of the new regime of movement is no less part of the system than the security devices it employs. Since its inception, the Israeli regime of occupation has assumed the appearance of legality. Martial law and military decrees have been subject to judicial examination and often challenged in the Israeli Supreme Court of Appeals. In most of the cases, the decrees have been upheld and the appeals rejected. The very existence of a legal procedure, however, and the very few cases in which the court decided in favor of the Palestinians plaintiffs sufficed to create the needed façade of legality and created an arena for resistance to the Occupation shared by Palestinians and Israelis alike. In the specific context of torture, public pressure—brought about a special committee of inquiry that looked at practices of torture used by the Israeli Security Service—called for legalization of a special kind of “moderate physical pressure,” that would not be considered as torture but would be tough enough on the detainees to yield the necessary information. After a long debate, the law was changed accordingly. Torture at the checkpoints, however, had nothing to do with investigations of suspects in times of emergency. It had to be eliminated, for legality does matter.

The army has taken notice of the accumulating complaints and instead of asking for legalizing a new questionable method, as it often does, has started changing the method. First, it appointed “humanitarian officers” in charge of preventing unnecessary suffering at the checkpoints and gave crash courses in humanitarianism and human rights to some of the soldiers serving there. Then it devised new facilities for the main checkpoints. One of the first things to be arranged was a special “humanitarian queue” for the “humanitarian cases.” But this did not solve the problem of waiting, the possibility of torture in the closed waiting zone. It was necessary to rationalize the checking mechanism for other reasons as well. It was not efficient, it caused too much friction, and it was bad public relations for Israel. A whole new set of border control facilities was therefore devised and constructed at the principal crossing areas on the main blocked roads. A better order has been established, the means of control and identification have been improved, waiting time

has been somewhat shortened, and the density of the crowds has been reduced. Torture by means of herding a multitude of human beings into hermetically closed spaces has become rare indeed. In fact, torture has become almost impossible by virtue of the fact that in the new facilities nothing—and nobody—can get too close to a waiting person. Contact between the Palestinians asking to pass and the security personnel has been reduced to zero; the waiting zones and the halls are large enough, perhaps too large. Most of the soldiers now take positions on a second floor and are mostly invisible to the passengers. The soldier who actually checks the papers is seated too high and too far away to be clearly visible, and most of the communication is done by means of a set of loudspeakers through which orders and names are shouted, usually in Hebrew, and often in a distorted and hardly decipherable voice.

With the “humanitarianization” of the terminals, torture in the waiting areas has decreased dramatically. At the same time, however, the fragmentation of space and the apartheid-like regime of movement that shatter the life-world of the Palestinians have been kept intact; in fact, fragmentation has advanced and the movement regime has become all the more consolidated. The regime is now capable of more qualified distinctions and differentiations on the one hand, and of more devastating forms of closure and blockade on the other hand. The construction of the “Separation Wall” and the improvement of the checkpoint system in the West Bank, and the complete closure of the Gaza strip after “the disengagement” (the withdrawal of Israeli troops in August 2005 and the evacuation and destruction of the Israeli settlements there) are two different means that achieve similar results in different settings and conditions of domination: reduction of direct contact and other forms of “friction” between Israelis and Palestinians and the abandonment of the Palestinian population left within its gated spaces. These spaces remain tightly controlled, but now they are controlled at a distance. The new system of rule includes specific “humanitarian arrangements,” of course, which let the international community (NGOs, UN agencies, and governmental agencies of donor countries) take most of the burden of caring for the Palestinians from the Israeli government and make sure that certain minimal basic provisions of food and medicine will be supplied. The Territories are always “on the verge of humanitarian catastrophe,” humanitarian experts often warn, but the threshold has not been crossed yet. There is no famine in Palestine, no epidemics, no mass killings; only an ever growing shortage of everything (except for explosives, apparently).

There is something that resembles torture in this process of deterioration, for the conditions of a chronic disaster and the infliction of suffering

and losses must be constantly monitored and the ruling apparatus must be careful not to cross the imaginary line of a full-fledged catastrophe. But this resemblance is superficial. The great “merit” of the new regime of occupation that Israel has established in the Occupied Territories is minimal friction, distant control, the luxury of indifference to the plight of particular persons, and—in Gaza—freedom from the last constraints of even the appearance of the rule of law. The violence with which Israel rules the Occupied Territories, and Gaza in particular, is not that of a sovereign who has declared an emergency and suspended the law; it is rather that of a sovereign who has become entirely indifferent to any system of law and has stopped caring for its distinctions (e.g., between combatants and civilians, armed men in action and innocent bystanders). In Gaza, no sovereignty is infringed and no sovereignty is enforced; the withdrawal of state apparatuses has enabled the state to exercise bare force on lives that became bare long ago, without however being engaged in war. Palestinian “suspects” are hunted like dangerous criminals, but the policing forces have nothing to do with the law.

Israel rules the Territories today through a combination of means: the fragmentation of space, a very tight control of movement in between spatial cells, and scattered, unpredictable, but relentless and recurrent violent blows (usually in the forms of missile attacks from the air and sea and pursuit of suspects by commando units on the ground). While the regulation of movement is still embedded in a system of decrees codified in a quasi-legal language and open to legal challenge in Israeli courts, the exercise of violence is usually conducted according to a hit-list of people who are supposed to be involved somehow in “terrorist activity”—perpetrators and collaborators alike. During the past year, attacks of this kind have happened almost daily. About half of the people injured or killed in these attacks were not on the list and were not targeted. Those who are targeted are selected according to information collected by different intelligence apparatuses. Apparently, there is a specific procedure for approving the killing of people on the list, and top ranking military officers discuss this procedure with Israeli (Jewish) philosophers who, in this case, play the role of physicians in the torture halls—they draw an imaginary line that limits violence and justifies it at the same time, at least in the eyes of the perpetrators. But both the general procedure and the particular decisions made to add a person to the list and then to execute him at a particular time and place and in particular circumstances are practically immune to legal questioning.

In the camp called “Gaza,” killings are now regular. They may happen at any time—and yet they always arrive unexpectedly; they may

happen anywhere, because no shelter is immune to Israeli attacks, and to anyone, because it is hard to know when one is standing or coming near a target. Recently, the Israeli army added a hit list of houses to the hit list of individual suspects. Residents get a phone call that warns them of a coming attack and to evacuate the house, which is hit by a missile shortly thereafter. The ongoing killing and destruction terrorize and traumatize tens of thousands who are not physically affected. These are people who mostly live in poverty, with average incomes of less than \$2 a day, in one of the most densely populated areas on the globe, and whose economic situation is in a constant state of deterioration. Only 40% of the 1.3 million people in Gaza have some kind of work and income; about 60% receive food and medicine from humanitarian organizations. People have nowhere to go; there are fences all around, the gates are mostly closed, the beach has become too dangerous. The withdrawal of the Israeli ruling apparatus in August 2005 has not liberated Gaza but turned it into a wasteland. But there is no war in Gaza, very little visible presence of Israeli forces, and no tortures either.

The torture of Palestinian detainees was one of the symptoms of Israeli oppression during the first Intifada. During the Oslo years, the use of torture declined but it was also legalized after a long public and legal debate. Torture became popular again during the first years of the second Intifada, but the number of reported cases dropped after 2003. Since the disengagement, in Gaza at least, there are no more tortures. In the West Bank (in which “disengagement” has not taken place and hundreds of Jewish settlements thrive), hundreds are still detained without trial and dozens of detainees are still tortured. In Gaza, suspects are not arrested, detained and tortured, but rather systematically eliminated from a distance. Targeted killing has replaced torture as a special kind of state terror in which the use of violence is intimately linked to an intensive interest in designated individuals.

Indeed, the torture of detainees and the “targeted killings” of suspects (with their usual “collateral damage”), are two different forms of state terror in which state authorities invest a great deal in coming to know their victims as private individuals, profiling them in detail, and learning everything about them that may seem relevant for establishing their relation to one of the active militias. In the first case, the intimate co-presence of the perpetrator, the torturer, and his victim produces knowledge that is then mobilized to extract information the detainee supposedly conceals. In the second case, power has no personal encounter with its victims; they have become names on a list, images on a screen to be destroyed at a distance, like figures in a video game. Here information is not the

goal but a means; the goal is “elimination.” Moderation is exercised not in order to keep the victim alive but in order keep his death as “clean” as possible, and “cleanliness” is not a matter of legality but of sheer efficiency and good public relations. One does not work here any longer in the shadow of a suspended law, on the other side of law, which is still defined by law, but in a sphere entirely detached from the law, completely indifferent to it.

Torture stands out as an unusual form of state terror, because it may still be challenged in court with certain positive results. State torture, associated as it is with clandestine operations and the darkness of secret, hidden rooms, is the shadow of suspended law and of indecency. Where torture exists—at least clandestine, hallowed torture—there is still shame that may be called upon, and there are law and decency that may be retraced and restored. “Targeted killings” and the systematic production of disaster belong to a different realm of state terror (sometimes disguised as “war on terror”). This is a realm beyond law and decency, a realm in which security has become a name for a license to eliminate individuals and to rain havoc upon entire populations, reducing them to the conditions of bare life. Here there are neither shadows nor shame. Eliminations are carried out in the open, in front of the victims’ families and neighbors, the public, and the camera; the conditions of bare life are quickly monitored in order to save the victims from a “humanitarian catastrophe.” In this new realm of state violence, the almost complete obsolescence of torture and the almost complete impotence of law go hand in hand.

Why then does state torture continue? Why those secret, hidden places for holding detainees and torturing them outside the reach of the law? Why the intense attention given to Abu Ghraib? Perhaps these are but signs of an effort to extend the shadows of law and legality into the new realm of state terror in a kind of desperate attempt to overcome the state’s indifference to law. It is as if people believed that where torture occurs, the law too can be retraced, and that by insisting on legal cases of torture they can force the state to re-introduce its violence into the legal sphere. Both the critics and the state authorities who respond to them seem to stick to an old faith in the double life of the law, as reasoned and enlightened ruling accompanied by an always excessive force. It is as if when force is framed as excessive, law somehow reappears.

In this sense, Gaza is but a paradigm for a new *modus operandi* of state power that restructures the relation between law and violence in regions absent any form of sovereignty. The use of direct violence is not restrained by the law, it is not made possible by the suspension of the law, and it is not called for by an interruption in law enforcement due to a

declared state of emergency. Officially, the use of direct violence is only related to the resistance of the governed population, as it is defined by the governing power. This resistance is continuous with the very presence and existence—the life—of the governed. Violence is therefore not part of a system of law but of a system of bio-power. The “gentle” means for the suppression of resistance is the production of disaster through non-violent means (enclosure, blockade, embargo, fragmentation of space, etc., which choke the economy and destroy the social infrastructure). Brutal means include the killing of suspects and of those who happen to be near suspects at the time of an attack, and the destruction of their houses. The two elements complement each other: a measured and relatively controlled production of death that never becomes mass killing accompanies and contributes to a relatively controlled production of disaster that never becomes a catastrophe. Torture has not come to an end but remains external to this new form of state power; torture functions on the margins of this power or characterizes its relatively rare moments of excess. Both the practice of torture and its critique should be questioned in the framework of this new economy of state violence.