

and this book supports the theory, that Jews from the Arab and Muslim world were deliberately kept in poverty by Ben-Gurion and his government upon their arrival in Israel. As we have learned from G. N. Giladi (*Discords in Zion*, Scorpion Publishing, 1990) and Naeim Giladi (*Ben Gurion's Scandals*, Gilit Publishing, 1992), in some cases, like that of Iraqi and Yemenite Jews, Israel was involved in their departure without their property. Instructions by immigration officers were to take very few belongings, as Israel would provide for all their needs. In doing so, the Ashkenazi-Zionist government killed two birds with one stone: Not only did they bring in hundreds of thousands of additional Jews to win the demographic battle against the Palestinians, but, more importantly, those helpless, penniless, and dependent Jews also became the proletarian base for the Labor party's "socialist" revolution. The party could now mold them according to their Zionist agenda, using them to settle the occupied Palestinian territories and to staff the factories of the new industrial economy. Had these Arab Jews received compensation, they might instead have moved to the center of the country (metropolitan Tel-Aviv) or left Israel all together.

This book is a must-read for anyone dealing with the Israeli-Palestinian conflict, but it is particularly relevant for Jews from the Arab and Muslim world, for whom it will provide useful and up-to-date data and a deep understanding of the issue.

## DISCUSSING TORTURE

**Why Not Torture Terrorists? Moral, Practical, and Legal Aspects of the 'Ticking Bomb' Justification of Torture**, by Yuval Ginbar. Oxford and New York: Oxford University Press, 2008. xxvii + 349 pages. Annex to p. 364. Bibliography to p. 397. Index to p. 414. \$130.00 cloth.

### *Reviewed by Marnia Lazreg*

Yuval Ginbar's book, *Why Not Torture Terrorists? Moral, Practical, and Legal As-*

*pects of the 'Ticking Bomb' Justification of Torture*, critically examines the morality of the "ticking bomb" scenario, a fictitious case frequently used by advocates of torture to justify its use under exceptional circumstances "to save lives." Ginbar is an Israeli human rights activist with legal training. The book was first written as a dissertation and incorporates articles that originally appeared in human rights publications. Structured around twenty overlapping chapters, it focuses on two case studies, Israel and the post-9/11 United States, although it also refers to a wide array of cases and methods of torture drawn from Latin America, Africa, and Turkey, among others.

Moving from a depiction of the ideal type of an individual faced with the "dilemma" of torturing a suspect to justifications of torture provided by the state, Ginbar weighs the similarities and differences between two philosophical approaches to torture: the "absolutist," which rejects the use of torture under any circumstance, and the "utilitarian," which approves of torture under exceptional circumstances. He further studies the structure of concrete "models" of legalized torture adopted in Israel; the advocacy of "torture warrants" first formulated by Harvard law professor Alan Dershowitz; the legal maneuverings to justify torture in the United States under the Bush administration; and the status of torture in international law.

Ginbar is emphatic that torture cannot be justified on moral grounds, whether it is inflicted by an individual or by the state. He argues that the ticking bomb justification provides an illusory protection from acts of terror and opens the door to infinite definitions of what constitutes an emergency situation, as well as an unending slippery slope of acts that are far more corrupting and inhumane than those that torture seeks to prevent.

Noteworthy is Ginbar's discussion of the legalization of torture in Israel, as it provides information on this process's historical evolution and its consequences on Palestinian detainees. In 1987, the Landau Commission, looking into the legality of interrogation methods, concluded that the torture of detainees is justified as a lesser "evil" and is allowed by penal law as a "defense of necessity" (p. 173). Consequently, interrogation methods (euphemistically called "pressure") were secretly determined by a ministerial committee, which also instructed members of the General Security Services (Shin Bet)

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to carry them out, thus effectively warranting torture. In 1999, the Israeli High Court of Justice rejected torture by authorization and instruction, but applied the necessity defense to the ticking bomb scenario after torture had already been used, thereby ensuring that torturers would go unpunished. Consequently, torture continued as before, aided by secrecy, incommunicado detentions (which the author rightly considers a torture method), and lack of accountability (as no Israeli torturer has been or can be brought to justice).

As laudable as Ginbar's appeal to a higher morality is, it may not convince those bent on justifying means by their ends. I am skeptical about Ginbar's frequent and uncritical use of the hackneyed notion that the decision to torture presents the individual and the state with a moral "dilemma." Memoirs and confessions of former French and, more recently, U.S. torturers do not support this assertion<sup>1</sup> and the recurrence of torture since World War II is testimonial to the elasticity of moral conscience. By accepting the notion of a "dilemma," Ginbar essentially weakens his own argument, as he implicitly acknowledges the validity of torture moralizers.

Ginbar's formalism also obviates a discussion of the context that facilitates recourse to torture. In both the Israeli and U.S. cases, "terrorism" is used as a dehistoricized umbrella concept that permits the torture of individuals deemed suspects. The torture of Palestinians, however, predates the emergence of suicide bombers, as well as al-Qa'ida, and requires elucidation by examining the sociocultural and ideological prejudices that dehumanize Palestinians; the degree to which these prejudices pervade

Israeli culture; and their articulation with the acceptance of torture with impunity and without moral qualms. By comparison, the torture of Iraqis and Afghans was facilitated by anti-Muslim sentiment and its methods adapted to the cultures of its victims. Furthermore, torture's strategic role in counterinsurgency wars transcends considerations of morality. Evidence indicates that Israeli and U.S. military officers were trained in the French doctrine of "revolutionary war" that considered torture a weapon of war. The public outcry over recent revelations of the unbridled use of torture by the Central Intelligence Agency and the military seems to indicate that perhaps what is needed is not so much to demonstrate the immorality of torture, although this is valuable, but to develop effective means of making torturing states comply with international law.

The difficulties inherent in Ginbar's anti-torture stance are compounded by the lack of a theoretical or conceptual framework holding the book together. It is repetitive, fragmented, and its footnotes excessively long. However, these shortcomings hardly detract from the importance of the book and the principles it upholds. The critique of arguments made by intellectuals advocating torture needs to be heard. Furthermore, the comparison of Israel and the United States is to the point and deserves to be made, as Israel's use of torture has traditionally been exempted from serious scrutiny or condemnation. The strength of the book ultimately lies in its unconditional and uncompromising defense of that essential quality in all us, our humanity, which cannot be violated for *any* reason. For this, the author deserves praise.

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<sup>1</sup> Général Paul Aussaresses, *The Battle of the Casbah: Counterterrorism and Torture*, translated by Robert L. Miller (Enigma Books, 2002–2006); Toni Lagouranis and Allen Mikaelian, *Fear Up Harsh: An Army Interrogator's Dark Journey through Iraq* (NAL Caliber, 2007).

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