

## **Human Rights Monitoring and Reporting: 11 Scenarios for Extra-Curricular Training**

*Name of organization:*

**Youth Centre of Human Rights and Legal Culture**

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### **Starkland, Scenario/Role play 1 (day 1)**

#### **Use of force during detention, breach of procedural rights**

##### **During the detention (not arrest) of the central character on suspicion of a crime (accessory to murder)**

1. The use of force was unnecessary (on being detained, the hero did not resist; then at the police station, they made him stand in an uncomfortable position in order to “soften him up” and make him talk).
2. The officer who detained him did not observe the required procedure (did not introduce himself and did not say what was happening).
3. He was not told why he was being detained and what his status was (detained or arrested).
4. The detention and search report was not completed straightaway but only after fourteen hours (the standard is three hours), and officers tried to falsify the report.
5. He was not brought to court to confirm the legality of the detention.
6. He was not allowed a phone call to inform his relatives about his detention.
7. An officer did call a lawyer for him .
8. He was kept at the station for longer than the maximum period for a preliminary interview (the standard is 24 or 36 hours; he was held for 48 hours).

#### **Example Monologue**

**(It is possible to change the style of the statement but not to change its content.**

**All the details are very important)**

My name is Peter Hain (Rita Naumann). I decided to turn to you for the following reason. In March I met with the following misfortune. One of my friends, – N, was killed. and what happened is connected with this. On the 12<sup>th</sup> April sometime around five in the afternoon, I was walking along the street towards home when a police officer came up to me and asked to see my documents. I was a bit shocked. I hadn't broken any law and asked him why he wanted to see my documents. He demanded them again, quite sharply. He said that it was not my business, all citizens had to obey the police. I became angry and replied, also sharply, that I was not going to give my documents if I didn't understand why, that I was a law abiding and tax paying citizen and supporting him with my taxes so he should speak courteously. Completely unexpectedly, he grabbed his truncheon and struck me in the stomach, right in the solar plexus. I doubled up –the pain was awful and for a second I lost consciousness. Then he hit me under the knees and I fell to the ground. He laid me out on the pavement, handcuffed me, radioed for a car and said, “Come, I've

detained him”. It’s true, I don’t remember too well what he said –I was in a terrible state.

A car came and brought me to the police station. They took my bag, searched me, took my documents and wallet (there was nothing else in my pockets) and said that a senior officer would come soon. I would have to wait for him. They removed the handcuffs and ordered my hands to be chained behind my neck and my face against the wall, spreading my legs wide. You know, it was very difficult to stand like that. I tried to demand that they explain to me what was happening, but feebly. I hadn’t yet come round after being punched, and they shouted at me to be quiet. When I tried to move to be more comfortable, they also shouted. I stood like that for I don’t know how long.

I was very tired and almost fell when the senior officer finally arrived. The four of them discussed something among themselves and the one who had detained me ordered me to go with him. Again I tried to ask what it was all about, but he pushed me in the back towards the door. I was too tired to argue. I now understand that I should have tried to say something, but I was too shocked and even scared. They brought me to a cell and closed the door. Then they brought food. I ate and fell asleep. In the morning they fed me again and brought me to another room. There the senior officer from the previous day was sitting. He started to ask me questions just as if I were a murderer. He asked why I helped to kill N, had there been a falling out when I did it – I don’t remember exactly all the questions. I said that it was nonsense, N was my friend, I hadn’t killed him and I hadn’t helped anyone to kill him. The officer said, “ But Redder pointed the finger at you, said you helped him.” I asked, “Am I accused in the murder as an accessory?”

Then the officer presented some official kind paper and said, “Sign here.” I looked at it and saw that it was a detention report on suspicion of having committed a crime. It had yesterday’s date on it. I recalled a program called “Advice of a Lawyer” and wrote, “I am signing this report on the 23<sup>rd</sup> April.” Then the officer said that it would be in my interest to tell everything sooner rather than later. As soon as I admitted taking part, he said, they would release me on bail. But if I didn’t admit it, they would continue to hold me. I said, “No”. Then he started to shout at me, that I was a murderer and that I didn’t allow the police to do their job. He said, “Sign this as well.” I read the paper that seemed to be the report about the questioning. Since it seemed to be correct, I signed. The officer summoned one of the policemen from the previous day, who took me away to the cell.

The second time they called me out it was already evening. It was exactly like in the morning – they shouted at me and demanded that I admit to being an accessory to murder. They said that they would detain me until I confessed, and if I confessed they would let me go. I was very tired from all this, but it was iniquitous – to confess to a murder, and I said, “No”.

They sent me back to the cell. In the morning the same again; but in the evening some sort of new official came, give me back my bag, documents and wallet and released me. He didn’t say a word.

*End of the monologue. Then the players begin to ask questions. Here are examples of questions and answers.*

**Did the hero apply to the court (the body which monitors the police)?** Yes, the hero filed a complaint which the court investigated, passed on to the police and opened an official investigation. The investigation has been going on for seven months. They called the hero once at the beginning to give a statement. They barely

questioned the officer and were not interested in the testimony, as if they suspected that the hero made it up himself.

**The number of the police department?** Neustadt, department 15/43.

**Does he still have traces of the blow on his body?** Yes, a bruise. He got a note from the doctor confirming it.

**How did the policeman behave in the beginning?** The policeman did not introduce himself and apart from demands to show the documents, said nothing.

**Were there any witnesses?** Yes, in particular the hero's neighbor, Irma Holland.

**Did they take her statement in the course of the investigation?** No, even though the central character mentioned her.

**How many people were at the police station to start with?** Three--the policeman who brought in the hero and two young officers. They did not refer to each other by name.

**Who supervised them all to start with?** One of the youngest officers who was at the station. The central character does not know his name. He was tall with fair hair and glasses. The second was shorter and dark haired. The third (who detained him) was of medium height (like the second), with a moustache and chestnut hair.

**The senior officer?** The hero does not know his rank. Well built, short, with short black hair.

**Was a report of the search made?** No.

**Was anything missing, for instance money?** No.

**Possible actions for the players:**

1. Analyze the scenario from the point of view of a breach of the rights of a detainee. For this they take "The Law on Police", The Constitution, and "The Covenant on Civil and Political Rights".
2. Go to the police. The players are referred to the police department 15/43 where the official investigation is taking place. The head of the department agrees to meet them and says: "Yes, sometimes you come across unprincipled police officers who use force more often than necessary. And the finer points of procedure are not always followed. But you can see under what conditions we work – criminals behave nastily, there is a universal lack of morals, people themselves allow a lot. Our colleagues are worn out. Sometimes it is necessary to pin down a criminal; that's the only way you can call his bluff. Nevertheless, we are battling against lawbreakers and on this matter.... Yes, several facts have been confirmed, but some not. Don't ask any more – it is a secret of the investigation. Will the investigation go on for long? Yes, we are a little behind, but you see how much there is for us to do. Here real criminals would be caught. Besides, in holding the suspect, our colleague acted completely within the law and in accordance with our instructions. But I can't let you have them, they are for internal use."
3. Using their best efforts, the players acquire "Instructions for detaining criminal suspects" from the Starkland police. (The "government group" should file an official application to The Ministry of Internal Affairs; the players should work out what they have to do to get ahold of this official document.) The "human rights group" can also file an application but it will not be given to them, and then they can "buy" it. (A third role is someone from the Ministry of Internal Affairs who has seen their application and the refusal, comes to them and offers to let them have the document for money). Analyzing it, the

players discover that the instructions contradict the “Law on the Police”, the Constitution and ”The Covenant”.

4. **ON THEIR DEMAND**, and only when the players have discovered a transgression, they can submit:
  - Further communications from different towns of the country about similar occurrences;
  - A full report to the Ministry of Internal Affairs about these transgressions and their battle with them;
  - The results of the monitoring of different human rights organizations regarding the use of force, breach of procedures in detention, and refusal of the use of a telephone and refusal to call a lawyer.

(This material will be in a special binder.)

**So, in the scenario there are three roles:**

- The victim
- The head of the police department 15/43
- A worker in the Ministry of Internal Affairs who sells the instruction document

### **Starkland, Scenario 2 (day 2, morning)**

#### **Torture and cruel and inhuman treatment (physical and moral suffering)**

The central character of the scenario is accused of dealing in drugs.

- He was subjected to cruel and inhuman treatment causing physical and moral suffering with the aim of obtaining evidence;
- He could not find out about evidence they had against him;
- When they did eventually present the material, he did not have enough time to study it;
- The investigation into the use of torture was not carried out properly.

#### **Example Monologue**

**(It is possible to change the style of the statement but not to change its content.**

**All the details are very important)**

Good morning. I would like to submit to you the account of my affair. I just don't know where else I can turn. I have done everything I can and have applied to the court but they didn't help me. My name is Paul Kabunke (Eva Hesse). I was guilty of a wrongdoing: I dealt in drugs – in a small way. I smoked marijuana myself and to earn some money I sold a little to other people. It's easy to find buyers. I don't do it any more. I went to prison and served my sentence – two years. But I want to tell you what happened to me during the investigation.

The police searched me, found the goods, arrested me with a small quantity, brought me to a police station and then to prison where the investigation began. They called me for questioning and asked who I was, where I had got the marijuana, and I told them everything. The second time they called me and said, "You cheated us. You didn't buy it where you said and not such a little amount. It was given to you for free for you to distribute." I could see that they wanted to make out that I was a member of a gang or network, that I must know a lot of people and had received a great deal of money. I said, "What are you talking about? That's not true." Then the lead interrogator said, "All the same, you will tell us everything." He called in two more officers who started to hit me and shouted that I was a reptile, a villain and that I killed people "with junk", meaning drugs. They demanded that I admit everything and tell them everything, otherwise things would be bad for my sister. I was very scared and was coping badly--I either kept quiet or simply cried out. Then the investigator told them to let it drop. I should kneel and kiss his boots, otherwise they would continue to beat me. I knelt and kissed his boots. "Either you will confess now," he said, "or we will simply kill you and nobody will ever know. And we'll rid the world of a reptile." It's very unpleasant for me to recall it. Then they said, "OK, we don't need your signature. Everything will proceed as it should." They threw me into a cell and my cellmate saw what a state I was in. I said that I needed a doctor but they only brought one to me on the fifth day, when the bruises had almost disappeared. And during this time they didn't allow me a lawyer, either. I got very nervous and couldn't understand what evidence they had against me. But they didn't allow either me or my lawyer to see it. I think they just hoped that I would sign something. Then just a half hour before the court appearance they gave me the material--a thick file with reports, experts' depositions. I didn't understand even half of it.

The court, thank God, examined only my first statement. I still don't know why. They gave me two years, but I decided that I wouldn't leave it at that.

When I was released, I submitted a declaration to the court and they looked into the matter, but nothing came of it. The medical evidence had been obtained late. No one had questioned my cellmate. The court decided that my appeal could not be upheld and that everything was "beyond any kind of doubt". So it all ended with nothing.

*End of the monologue. Then the players begin to ask questions. Here are examples of questions and answers.*

**What is it that you want?** Justice, and more accurately (the central character found difficulty in saying) also perhaps to put those reptiles in prison.

**When did all this happen?** Three years ago.

**Did they tell you straight away what your status was and what you were accused of?** (At first the central character doesn't remember very well, and then he states) I was accused of drug dealing.

**Did they bring you to court to confirm the legality of the detention?** Yes, it looks like they did.

**Do you remember what the investigator and those who beat you looked like?** I know the exact name of the investigator, and he wrote down the names of the other two officers.

**Possible actions for the players:**

1. Analyze the scenario from the point of view of a breach of the rights of a detainee. For this they refer to “The Law on Police”, The Constitution, and “The Covenant on Civil and Political Rights”.
2. After the first scenario, how is it possible to apply to the police or the court? The judge dealing with the matter agrees to meet them and speaks generally about the difficulty of proving “beyond reasonable doubt”, and that it wasn’t possible to cast a shadow over innocent people. To the question about the investigation not being conducted properly, it is possible to say that the investigation was proper. The medical evidence was insufficient and the complainant could not find his former cellmate. He disappeared somewhere.
3. Understand that torture and inhuman behavior in the criminal code does not conform with the international understanding (does not take account of moral suffering).
4. Analyze other cases of torture (material is received by mail).
5. The players can submit the question to the Supreme Court of Starkland, the constitutional supervisory body. The judge agrees to meet them and delivers the following speech: torture and cruel behavior are not something extreme. In relationships with criminals, firmness and sometimes even severity are needed. Not the kind of torture and cruelty made infamous by the Spanish Inquisition such as tearing off fingernails, of course, but electric shock is permissible. The judge has to cleverly get around the problem of blackmail; in response to direct questions, he takes a deep breath and says that it’s awful but necessary.
6. **ON THEIR DEMAND**, and only when the players have discovered a transgression, they can submit:
  - Further communications from different towns of the country about similar occurrences;
  - A full report to the Ministry of Internal Affairs about these transgressions and their battle with them;
  - The results of monitoring different human rights organizations regarding torturing and harsh treatment, breach of procedural rights, and drawing out the investigation.

(This material will be in a special binder.)

**So, in the scenario there are three possible roles:**

- The victim
- The judge who discusses the validity of the investigation
- The judge of the Supreme Court justifying the national legislation not being in accord with international legislation

**Starkland, Scenario 3 (day 2, afternoon)  
Presumption of Innocence, Preventive Arrest**

The central character is held on suspicion of being a member of a terrorist organization.

In accordance with the presidential decree on the battle with terrorism:

- The basis for his detention was too wide and not concrete, and, in fact, was preventive arrest;
- There was an absence of court control over his detention;
- He was held under arrest for 1.5 months without charge and questioned almost daily;
- He constantly experienced feelings of bewilderment, pressure and fear;
- He missed a lot of work and part of his examinations in the university and consequently had to work independently and in parallel to pass his exams.

### **Example Monologue**

**(It is possible to change the style of the statement but not to change its content. All the details are very important)**

I am Jurgen Hasse (Monica Kuntze) and I am a student at Neustadt University. You probably know that after the last act of terrorism they have been “turning the screws” here and this, so to speak, bounced back on me.

Do you know where I spent one and a half months? In prison. Do you think I am a terrorist? No. Or that I have friends in the “3<sup>rd</sup> August Movement” or whatever it is? Also not. Then what did I do? They questioned me. They think that because I am 21 years old and study in the university that I am a terrorist. And I am not alone. Five of my friends from the university were also arrested.

They simply stopped me on the street, put me into prison, held me there for one-and-a half months. And questioned me all the time –did I know so-and-so? What I had done at such-and-such a time? What do I think about something-or-other?

Nobody explained what was happening, who I was, why I was there. I wondered would they ever release me. Nothing was clear. It was terrible. Then they released me and even wrote a note to the university. What more could I do? I had missed a mountain of work and three exams. I had to do extra laboratory work and pass the exams.

Was that really lawful?

*End of the monologue. Then the players begin to ask questions. Here are examples of questions and answers.*

The central character considers that they treated him very unfairly.

**When did all this happen?** A month and a half ago, and they have just released the central character.

**Can someone confirm his absence for 1.5 months?** Yes, his family.

**Did they give him an official document about where he had been?** Yes, they gave a written confirmation to the university.

### **Possible actions for the players:**

1. Analyze the scenario from the point of view of a violation of the rights of a victim. For this they reference “The Presidential Decree on the Battle against Terrorism”, The Constitution, and “The Covenant on Civil and Political Rights”. Clarify exactly which rights of a detainee are breached by the new decree.
2. Decide for yourself whether this breach is justified. (Article 4 of “The Covenant on Civil and Political Rights during Emergencies and When the Life of the Nation Is under Threat” allows exemption and officially declares that the State can waive its obligations to the extent required by the seriousness of

a situation. It can do so under the condition that such measures are not related to other circumstances regarding international right and do not constitute discrimination with regard to race, skin color, religion or social standing.) For this the players will find out whether there was an official declaration about emergencies and waiving obligations. Did Congress ratify it?

So:

- a. In fact the country did experience an emergency when the life of the nation was under threat;
- b. Name which rights were involved and why is it possible to compromise these.

The players should reflect about these questions today and tomorrow.

3. Find out the facts concerning the detention of other people from Starkland – students, recent immigrants and Moslems.
4. The players receive an invitation to meet an expert from the Ministry of Internal Affairs who explains the need for the introduction of such measures (what he has to say will contain, first of all, facts about terrorist organizations, the spread of acts of terrorism in general, the charging of the atmosphere, and secondly, an account of how, thanks to detaining and questioning these young people, a new terrorist network was discovered).
5. **ON THEIR DEMAND**, and only when the players have discovered a transgression, they can submit:
  - Further communications from different towns of the country about similar occurrences;
  - The Ministry of Internal Affairs' report (possibly both groups have to pay for this information);
  - Statistics collected by different human rights organizations during the last two months about preventive arrest.

(This material will be in a special binder.)

**So, in the scenario there are two possible roles:**

- The victim
- The expert from the Ministry of Internal Affairs

**Additional information and problems in the expert's testimony in the previous scenario**

A requirement of the State is that it protects its citizens first and foremost. To do this it is possible that some citizens will suffer. Let us err on the conservative side.

What happened to these students and to other young people was not discrimination based on social, national or religious characteristics. Where is the discrimination here? Do you understand what it is?

In addition, there was no debasement of their human dignity. Can you prove what debasement there was?

**Starkland, Scenario 4 (day 3, morning)**  
**Partial refusal regarding openness and the adversarial nature of the court**  
**process relating to accusations of acts of terrorism**

The central figure is the wife (brother) of the man accused of an act of terrorism, who was tried in a special court and pronounced guilty. There is no news from the person himself, and his wife received only the official notification of the decision of the court

In accordance with the presidential decree on the battle with terrorism:

- The accused was tried in a special court;

- The trial was conducted by means of a simplified procedure;
- The members of the court were not a jury but representatives of the military and police;
- The trial was held in closed session;
- He wasn't able to choose a lawyer, and there wasn't sufficient time or the right conditions to prepare his defense, nor the possibility to speak without interruption to his lawyer;
- Conversation between the accused and his lawyer took place under the constant monitoring of the police;
- The plaintiff could not find out about any evidence the authorities had against him;
- The judges could rely on secret evidence which the accused and his lawyer were not acquainted with.

### **Example Monologue**

**(It is possible to change the style of the statement but not to change its content. All the details are very important)**

My name is Elsa Lehmann (Uve Lehmann). I am pleading with you to help me. I have no one else to turn to. My husband, Edgar Lehmann, has been accused of planning an act of terrorism. Honestly, I don't know whether it's true or what he's mixed up in. I personally would never have believed it, but now I don't know what to believe.

They arrested him one and a half months ago. They came to our home with a warrant during the evening as we were drinking tea and the children had returned from school.... They took him away and I didn't see him again. They refused my request to see him and said they would only allow a lawyer. When I heard about this – about the lawyer, I mean-- I was even happy. I thought it would be a normal trial and that I would be able to go there and see Edgar at last and to listen to exactly what he was accused of. But I couldn't even find out when the trial would be.

And suddenly, three days ago, I received an official envelope and in it was a letter. "We hereby inform you that the trial of Edgar Lehmann took place on such-and-such a date. He was found guilty of terrorist activity and preparation for new act of terrorism using TNT"--something like that. "He is sentenced to 10 years deprivation of freedom". I dashed to the prison. I asked how had it all happened and why hadn't I been told about the date of the trial. They replied that according to the presidential decree the trial was secret. Whatever this decree is I don't know. Could it be that it was made especially for my Edgar?

*End of the monologue. Then the players begin to ask questions. Here are examples of questions and answers.*

**Does the central character have a letter?** Yes, she gives it back.

**Did she try to find out about her husband's lawyer?** Yes, after a lot of asking she was given his name and telephone

### **Possible actions for the players:**

1. Turn to the lawyer of Edgar Lehmann to get more information about the matter. He agrees to meet and says approximately the following: he was indignant as to how the matter had been organized. He is a state lawyer

available under legal aid. Usually prosecution lawyers treat him with less respect than privately-paid lawyers, but this time there was something very strange. They barely allowed him access to the defendant. All conversations were held in the presence of the police, which was very aggravating. He was given very little time to become acquainted with the case material. He was sure that part of the procedure, for example, the search of the defendant was carried out improperly. The defendant looked very dejected, it seemed to the lawyer, but in the presence of the police Lehmann said nothing. The investigation itself took a very short time; it was too quick for a detailed analysis of the case and preparation of the trial process. In the actual trial it became clear that part of the evidence was secret. Neither the accused nor the lawyer became acquainted with it. He never found out what sort of evidence there was. The court pronounced Lehmann guilty and his lawyer was left with a bitter taste in their mouths and a feeling of helplessness. He couldn't do anything about it.

2. Analyze the information received from the point of view of a breach of the rights of the accused. For this they refer to "The Presidential Decree on the battle against terrorism", "The Law on Police", the Constitution and "The Covenant on Civil and Political Rights". Clarify exactly which rights of a detainee the new decree breaches.
3. Become familiar with the printed material dealing with the problem of law courts, the adversarial process, jury courts and the need to forgo certain procedures in the battle against terrorism.
4. Continue to evaluate the situation from the point of view of an emergency and whether and why it might be necessary to sacrifice some rights.
5. **ON THEIR DEMAND**, and only when the players have discovered a transgression, they can submit:
  - Further communications from different towns of the country about similar occurrences;
  - The Ministry of Internal Affairs' report (possibly both groups have to pay for this information);
  - Statistics collected by different human rights organizations during the last two months about conviction by special courts and the complaints by lawyers.

(This material will be in a special binder.)

**So, in the scenario there are two possible roles:**

- The wife of the accused
- His lawyer

**Starkland, Scenario 5 (day 3, afternoon)**

### **Force used in collecting evidence about crimes committed or possible crimes**

The central character of the scenario, a prison doctor, discovers that one of the prisoners has been tortured. This terrorist, Horst Schulz, placed a bomb in Neustadt North Railroad Station, phoned the nearby police station and demanded the release of his comrades. The police traced the phone call and, since the police station was nearby, quickly approached and detained Schulz. Under torture he gave information on the location of bomb and they disarmed it. A lot was written about the case in the newspapers, but it was not mentioned how the information was obtained. The players receive by mail a newspaper where this incident is described, and after a short time a visitor arrives.

In summary, the doctor learned the following:

- The accused was beaten on arrest;
- The accused was forced under torture to make a statement;
- The conditions of his initial imprisonment were very harsh;
- His relatives were not informed of his arrest.

### **Example Monologue**

**(It is possible to change the style of the statement but not to change its content.  
All the details are very important,  
and in this statement medical details can be changed later)**

My name is Karin (Hans) Sterr. I work in the “Hills” prison complex. I would like to give you some very important, possibly confidential, information.

Yesterday one of our prisoners, Horst Schulz, was brought to me. Do you know who he is? The young man who placed a bomb in the North Station. They arrested him immediately and disarmed the bomb. When they brought him to me, he was complaining of a pain in his left side and a severe headache. I examined him and discovered that he was covered with old bruises that were healing. I asked what had happened but his reply was unintelligible.

The moment the guard left, Schulz began to tell me that he had been beaten when he was arrested. These bruises were from the beating. And then during questioning he was beaten on the kidneys and on the head with a truncheon.

I don't like this man and I can't condone what he did, although he told me that he wasn't going to explode the bomb – he just wanted to free his friends. I am not sure that he can be believed.

But I am horrified by what I saw. It wasn't criminals who did this, but our colleagues. He has damaged kidneys, severe concussion of the brain and needles were forced under his fingernails. He is being held in solitary confinement in a cold cell and is not allowed any exercise. He needs special food but it's not given.

I asked whether his relatives know where he is being held. They could get him a parcel with special food products and medicines. But he didn't know anything about that and gave me his home telephone number. That evening I phoned his home. His mother didn't know where he was. She had found out about the whole episode from

the newspaper but she wasn't able to find out from the Ministry of Internal Affairs where her son was being held. They didn't tell her.

I have made a medical report but I don't know what more to do and where to go.

*End of the monologue. Then the players begin to ask questions. Here are examples of questions and answers.*

**Do you have a copy of the report?** Yes, I do.

**Possible actions for the players:**

1. Analyze the situation from the point of view of a breach of the rights of a prisoner. For this they refer to "The Law on Police", the Constitution, and "The Covenant on Civil and Political Rights".
2. Obtain additional information about cases of the use of torture on terrorist suspects.
3. Meet an expert from the Ministry of Internal Affairs, who says approximately the following: torture is terrible and illegal, but we have no choice. It should be legalized and put under the control of the police (see the actual interview below).
4. Continue to evaluate the situation from the point of view of an emergency and whether and why it might be necessary to sacrifice some rights.
5. **ON THEIR DEMAND**, and only when the players have discovered a transgression, they can submit:
  - Further communications from different towns of the country about similar occurrences;
  - The internal report of the Ministry of Internal Affairs on the fight against abuses;
  - Statistics collected by different human rights organizations during the last two months about complaints of the use of force and torture.

(This material will be in a special binder.)

**So, in the scenario there are three possible roles:**

- The prison doctor
- The expert from the Ministry of Internal Affairs

### **Terrorists? They should be tortured!**

This provocative news item spread quickly around the entire intellectual community in half the world. Alan Dershowitz, Harvard guru and U.S. progressivist, looks professionally at torture, which is forbidden under the constitution of the USA, as an extreme measure for preventing another September 11. [D= Dershowitz; I= interviewer]

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D. Straight away I want to emphasize that my proposal comes out of a revulsion within myself of torture: it is a secret and illegal phenomenon which, unfortunately, exists and, not being in a position to eradicate it, I would like to put it to the service of democracy and the law.

I. Is it a coincidence that your proposal appeared after September 11?

D. Honestly speaking, I had already put it forward in my book *Shouting Fire* in 1989. Of course, Osama bin Laden brought urgent reality to my proposal. Because faced

with a bomb fitted with a timing mechanism and ready to explode at the hands of a terrorist, any real democracy can and should do something to prevent such an explosion—even coercing information that could save thousands of innocent lives.

I. Don't you think that it is a step back from civilization?

D. Definitely not. My aim is to legalize torture in order to have the possibility of controlling and stopping it. Today torture is practiced secretly and illegally over the whole planet, including by democratic countries which have signed international agreements abolishing it. The CIA distributed a soul-chilling instruction book with the cruelest methods of "extracting information", and commissioners of police from California to Florida use torture every day behind closed doors. I consider that it would be much better to bring it within the scope of the law, making it visible and transparent – that is democratic. That would have the direct result of reducing its use.

I. Who would be tortured and how would torture be applied?

D. This would be up to the court to give the appropriate permission, depending on the situation. But local police would be carrying it out, who have historically become accustomed to using this method secretly. It is a matter which should be decided at the highest level of the court authorities and for all to see.

I. In what sort of cases?

D. Only with terrorists who "beyond reasonable doubt" qualify as potential informers. Torture should only be used on those who have information which could prevent people being killed. Apart from that, I propose the introduction of "non lethal" torture, for instance electric current or needles under the fingernails which would cause unbearable pain without threatening the life of the individual.

I. Some people say that under torture you can admit to anything. Like the Islamist terrorist who was tortured in the Philippines and confessed to an act of terrorism in Oklahoma.

D. The risk exists. You can't consider that what comes out of the mouth of a person under torture is a golden ingot. However, it is easy to check whether what he says is true. It is necessary to use specialists in torture who know how to question terrorists, driving them into a trap by the questions. Whether you like it or not, many lives could have been saved in this way.

I. Your proposal gave rise to strong criticism.

D. In a strange way people objected mostly to non-fatal torture, even those in favor of the death penalty. It is a question of aesthetics: they prefer to see a person who is possibly innocent and lying on a metal gurney covered in a white sheet than to hear the cries of a terrorist whose temporary suffering could save thousands of innocent lives.

I. Would you have approved of torture on prisoners in Guantanamo?

D. On what legal basis? There is no basis for believing that those prisoners could give information which would save human lives. The criterion I mentioned “beyond reasonable doubt” is not met.

I. And what about the laws? The constitution? International agreements?

D. Congress would have to suspend our participation in the international agreement against torture ratified in 1984 and which came into force in 1987. This agreement has become an anachronism, just like the Geneva Convention, which did not foresee this new sickness: state sponsored terrorism. New conventions and agreements are needed to rethink the post-September 11 reality.

I. But don't you think that torture contradicts human rights?

D. Of course. But that is the present dilemma: to make the choice between breaching the rights of guilty terrorists and destroying the human rights of thousands of peace loving people. Life is full of terrible and tragic choices.