





# PROHIBITION OF TORTURE



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HUMAN DIGNITY AND PERSONAL INTEGRITY  
INHUMAN AND DEGRADING TREATMENT  
TORTURE

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» *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.* «

Article 5, Universal Declaration of Human Rights. 1948.



## ILLUSTRATION STORY

*I was stopped in the street on 25 November 1991 at about 9 a.m. There were no problems at that stage. ... I was then taken to Bobigny police station. I was taken up to the first floor, where about eight people started hitting me. I had to kneel down. One police officer pulled me up by my hair. Another policeman hit me repeatedly on the head with an instrument resembling a baseball bat. Another one kept kicking and punching me in the back. The interrogation continued non-stop for about an hour. ...*

*On 26 November 1991 I was questioned again by several police officers – three or four – at some point in the day. ... On that occasion they pulled my hair, punched me and hit me with a stick. ...*

*They all carried on assaulting me until 1 a.m. I think that this session of ill-treatment had begun at about 7 p.m. At one point they made me go out into a long office corridor where the officer I presumed was in charge grabbed me by the hair and made me run along the corridor while the others positioned themselves on either side, tripping me up ...*

*After that, I was taken to an office and threatened with burns if I did not talk. When I refused, they lit two blowlamps which were connected to two small blue gas-bottles. They made me sit down and placed the blowlamps about one metre away from my feet, on which I no longer had shoes. At the same time they were hitting me. Following that ill-treatment, they brandished a syringe, threatening to inject me with it. When I saw that, I ripped open my shirt-sleeve, saying “Go on, you won’t dare”; as I had predicted, they did not carry out their threat ...*

*The police officers left me in peace for about fifteen minutes, then one of them said, “You Arabs enjoy being screwed”. They took hold of me,*

*made me undress and one of them inserted a small black truncheon into my anus.*

NB. When **Mr Selmouni** relates that scene, he starts crying.

*I am aware that what I have just told you is serious, but it is the whole truth, I really did suffer that ill-treatment...*

The European Court of Human Rights, after examining the facts and evidence of the case *Selmouni vs France*, unanimously decided on 28 July 1999 that there has been a violation of Art. 3 of the European Convention on Human Rights and Fundamental Freedoms.

(Source: **European Court of Human Rights. 1999. Case of Selmouni v. France.** Judgment from 28 July 1999. Strasbourg.)

### Discussion questions

1. How would you characterise what happened to Mr. Selmouni? What thoughts did this story evoke in you?
2. What do you think can be done to prevent similar actions from happening? Are you aware of already existing mechanisms on a local, regional or international level?
3. How do you think a society can support and assist victims like Mr. Selmouni?
4. Would you have taken a different position if you had known that Mr. Selmouni was a drug dealer? Why?

## NEED TO KNOW

### 1. A WORLD FREE FROM TORTURE

At the beginning of the 21<sup>st</sup> century, a world free from torture and inhuman and degrading treatment is still an unfulfilled aspiration. Human rights organisations and media report increasingly about cases of torture and ill-treatment and try to raise awareness both about commonly agreed standards and the differing compliance of states.

Serious forms of ill-treatment are often related and ascribed to societies and states where human rights violations are a daily occurrence. Surprisingly enough, torture is practiced in 2/3 of the world's countries including highly industrialised and developed ones as well, contrary to the widely shared view that torture is a phenomenon attributable only to poor and "uncivilised" societies. Even though torture or different forms of ill-treatment exist throughout the world, what differs from place to place is the extent to which they are practiced and the methods used.

The **prohibition of torture is absolute** and has been reaffirmed as such in many international and regional human rights treaties. It belongs to those human rights considered non-derogable, i.e. valid under all circumstances and not allowing state derogations on any ground. Torture and ill-treatment are also regarded as prohibited under customary international law. Despite this prohibition, torture and ill-treatment are still practiced. Torture and inhuman and degrading treatment happen frequently and repeatedly; they happen to people deprived of their liberty, to people belonging to different ethnic, social and cultural groups, to young and old, to women and

men. No one is immune to torture; everyone can become a victim.

For a long time, torture and inhuman and degrading treatment were perceived to be characteristic of times of warfare and slavery only, while their occurrence in times of peace was disregarded. Yet, a closer examination of cases of torture and inhuman and degrading treatment today shows that serious forms of ill-treatment do not belong to the past. Throughout the years, as mankind has progressed and developed, brutal ancient and medieval methods have been replaced by more sophisticated ones, yet equally cruel. And, their effect has not altered; torture and other serious forms of ill-treatment continue to be a severe human rights violation and a threat to human security. They infringe upon the physical and psychological integrity of the human being and thus require a more concerted effort to prevent them from occurring in the first place.

Contemporary developments, especially in the field of international law, as well as the faster distribution of information, have increased awareness of the problem of torture and other serious forms of ill-treatment and have brought worldwide attention to this issue. Both governmental and non-governmental organisations started to identify and address not only the consequences of many forms of ill-treatment but also their inherent causes. Unequivocal international standards for protection and prevention have been established and widely agreed upon. Additionally, a whole range of bodies for investigation, monitoring and supervision, on both national and international levels, have emerged in order to safeguard those prevention standards

and the non-derogative right of prohibition of torture and other forms of cruel, inhuman and degrading treatment and punishment.

### Prohibition of Torture and Human Security

Torture and ill-treatment are grave human rights violations and direct threats to the security of any person. Thus, protecting human life and preserving the physical and psychological integrity of every human being is central to the human security approach. The absolute prohibition of torture and other forms of cruel, inhuman and degrading treatment or punishment is primary to any quest for human security. Indisputably, raising human rights awareness through human rights education and learning, together with improved legal framework for protection against and prevention of torture and ill-treatment, are the cornerstones for enhanced human security and well-being. Additionally, the improved implementation of all human rights standards constitutes an important element of the overall strategy for enhancing human security. The Statute of the International Criminal Court, whose establishment has been fervently advanced by the Human Security Network, explicitly recognises torture as a crime against humanity and a war crime and thus places an additional special emphasis on preserving human life and human security.

*"Man torturing man is a fiend beyond description."*

Henry Miller.

## 2. DEFINITION AND DESCRIPTION OF THE ISSUE

### What is Torture?

Defining human rights violations like torture and ill-treatment in a broadly acceptable way has long been a challenge, even though their condemnation and prohibition has been generally accepted as a norm of customary international law, i.e. applicable to all states. The internationally agreed provisions for the absolute prohibition of torture, which are formulated in a number of international legal texts, have not been a sufficient guarantee against the occurrence of torture. Seemingly, there has always been definitional leeway, leaving a margin of interpretation to state authorities thus ensuring their acceptance of the international rules in principle.

A legal definition of torture has been included and endorsed by all signatory states of the **United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)**, 1984 (adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984; came into force on 26 June 1987). That definition in Art. 1 of the Convention designates torture as:

"...any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with

the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

Distinguishing elements of torture under the UNCAT are:

- An intentional act that causes severe physical or mental suffering;
- An act that is inflicted for a purpose;
- By a state official or person acting in an official capacity.

It is important to note that this legal definition takes into account both the psychological and physical dimensions of torture and ill-treatment, even though it is not all-inclusive and does not elaborate on those different levels in detail. It also excludes lawful sanctions, i.e. sanctions prescribed by national law, which in certain cases raise questions as to whether those sanctions may contradict the overall spirit and aims of the Convention. The definition does, however, add to the general understanding, as stated by the **UN Commission on Human Rights**, that “...all forms of torture and other cruel, inhuman or degrad-

*ing treatment or punishment [...] can never be justified under any circumstances whatsoever.”*

Mr. Theo van Boven, former Special Rapporteur on Torture, also upheld that “...the legal and moral basis for the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is absolute and imperative and must under no circumstances yield or be subordinated to other interests, policies and practices.”

On the occasion of the **UN International Day in Support of Victims of Torture – 26 June**, the International Rehabilitation Council for Torture Victims asserted that “**torture is one of the most horrible things one person can do to another.**” The aim of torture is to cause as much pain as possible without letting the victim die.” The deliberate infliction of pain and suffering, either physical or psychological, is a characteristic of both torture and inhuman and degrading treatment. In legal terms, the distinction, though subtle, between acts of inhuman and degrading treatment and torture is the **nature** of the act committed and the **purpose** behind it, the **degree of its severity** as well as the **cruel means** used. In other words, the more cruel, painful and intentional an act is, the more inclined is a court to examine it as a case of torture.

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*“Torture is an atrocious violation of human dignity. It dehumanizes both the victim and the perpetrator. The pain and terror deliberately inflicted by one human being upon another leave permanent scars: spines twisted by beatings, skulls dented by rifle butts, recurring nightmares that keep the victims in constant fear. Freedom from torture is a fundamental human right that must be protected under all circumstances.”*

Kofi Annan, UN Secretary-General. 2001.

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### Methods of Torture – How is Torture Committed?

In principle, anything, from water to household utensils, can be turned into an instrument of torture. Today, the tools and methods of torture have evolved rather than regressed and their cruelty and inhumanity has also augmented. A great concern about low or lacking governmental control is expressed by the former Special Rapporteur on Torture in a study on the situation in trade and production of equipment which is specifically designed to inflict torture or other inhuman and degrading treatment. A number of torture techniques currently widely practiced do not leave visible physical marks on the body but nevertheless have a detrimental effect upon the internal organs as well as the psychological integrity of the victim.

In general, the methods of torture can be classified in two major groups: physical and psychological.

**Physical torture** causes extreme pain and excessive suffering of the victim. In its most cruel forms, it can also lead to mutilation, disfigurement or lasting injury. The torture methods most often employed are beating with whips, metal objects, stones, cables and batons, kicking and hitting against a wall. The so-called “falaka” or “phalange” method (the fierce beating of the victim on the soles of her/his feet) is almost as widely used as the electro shocks method, suffocation, binding and burning with cigarettes or the exposure of the victim to extremely low or high temperatures.

**Psychological** torture includes deprivation and exhaustion techniques such as deprivation of food, water, sleep, and sanitary facilities, communication deprivation techniques such as solitary confinement and cutting off contact to either other detainees or the outside world, coercion and intimidation techniques, such as forced presence during torture of other people, threat of execution or a simulated execution, continuous humiliation and terrorisation, etc.

Additionally, sexual violence is often used as a method of both physical and psychological incapacitation of the victims.

All torture methods in use are a grave assault on the dignity of the human being and a violation of her/his human rights. A world free from torture means a world free from deliberate infliction of pain and the use of those cruel means by one person on another.

### Motives for Torture – Why is Torture Practised?

The motives for torture vary widely, but at the core, there is frequently a deliberate and purposeful drive. The desire to demonstrate power or simply hide weakness often leads to torture or serious forms of ill-treatment.

During different epochs in world history, torture has been used as a means to retain control and exercise power over opponents or people embarking on progressive ideas and thus implicitly threatening authority and governing systems. Torture has thus frequently been employed as a tool for **political repression** and **oppression**, for **punishment**, for **revenge** as well as for **silencing opposition**. Traditionally, torture and other forms of ill-treatment have been utilised to **obtain information** and get a **confession** even though confessions under duress and physical coercion have a questionable utility, if any.

Cruel and degrading treatment is also practised as a method to threaten, scare and dehumanise people, as a means to humiliate, to instil a feeling of uselessness and inferiority and ultimately destroy their personality. All of those acts, motivated by different intentions, have a long-lasting impact on the personality of the tortured person. The physical rehabilitation and recovery often take years and the consequences can not always be fully treated. Furthermore, psychological scars mark the victims for the rest of their lives and often prevent them from having a fulfilling existence.

### **Victims and Perpetrators of Torture, Inhuman or Degrading Treatment**

Anyone can become a victim, especially in societies where there is no tradition of the rule-of-law, or rather where the laws and the obligations they entail are rarely respected. Ill-treatment happens most often in prisons, police stations and other detention centres, but cases of its occurrence in private homes or in specialised medical facilities for the incurable or mentally sick are not a rare exception. Remand prisoners and sentenced criminals are an especially vulnerable group to acts of ill-treatment because they are dependent upon the authorities for their most basic needs. These places of detention are by definition closed; thus, the people detained find themselves out of sight of the rest of society and are frequently a group for which the general public has very little empathy or sympathy. Minorities, be it social, religious, or ethnic as well as refugees and asylum seekers are often subject to degrading treatment and run the risk of re-traumatisation. Elderly and mentally disabled people living in special establishments and hospitals, often disregarded and even forgotten, can fall victim to torture-like practices due to bad material conditions resulting from insufficient resources to assure a decent standard of living, medical care and ageing in dignity.

Children, men and women, young and old, can all become victims of torture. No one is invulnerable to the effects of serious forms of ill-treatment - the perpetrators are affected as well.

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*“They always asked to  
be killed. Torture is worse  
than death.”*

Jose Barrera, Honduran torturer.

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They are most often police or military officers, acting in their official capacity. There are numerous cases in which perpetrators of ill-treatment or torture act upon orders or as part of specialised groups in which such practices are a daily occurrence. Also, medical and security personnel in facilities for people with special needs can become perpetrators of ill-treatment due to negligence, lack of control and supervision or lack of resources or training.

### **3. INTERCULTURAL PERSPECTIVES AND CONTROVERSIAL ISSUES**

Differing cultural practices and perceptions undoubtedly affect the understanding of international legal norms and standards and often shape their interpretation through a specific cultural prism. For example, corporal punishment (the infliction of pain with a cane or a whip used as a corrective measure), is a widespread form of ill-treatment. Within the Islamic Shariah law tradition, however, corporal punishment or even amputations are not only accepted but also legalised practices throughout a number of religious courts which regulate marriages and inheritance as well as other areas of the physical and spiritual life of Muslims. In the Shariah Penal Code Law of the Zamfara State of Nigeria from January 2000, for example, caning and amputation are punishments prescribed by law, together with death and imprisonment. Likewise, in Saudi Arabia, Iran, Libya and Afghanistan, religious courts based on the Shariah law principles take similar views in their rulings.

The Israeli General Security Services, for instance, have continuously been criticised for using “moderate physical pressure”, often amounting to torture, as an interrogation technique. The adoption of the recommendations of the Landau Commission of Inquiry Report in 1987 in which the use of “...a moderate

*measure of physical pressure...*” during interrogation is justified on the basis of necessity has provoked heated debates. However, no clarification followed the recommendations as to where the limits of “moderate physical pressure” are and where torture practices start. Only in 1999, in the case **Public Committee against Torture in Israel v. the State of Israel**, the Israeli Supreme Court decided that the use of “moderate physical pressure” is illegal as it infringes the constitutional protection of the individual’s right to dignity. However, as articulated by the UN Committee against Torture in the Conclusions and Recommendations of the Committee against Torture: Israel, 23/11/2001, “...the Committee remains unconvinced and reiterates its concern that torture, as defined by the Convention, has not yet been incorporated into domestic legislation.”

These two examples show that even though the standards for prohibition of torture seem to be universally accepted, their interpretation and implementation may differ from country to country. It is, however, an open-ended question whether those differences reinforce the universal and absolute prohibition of torture in a culture-sensitive context or overtly contradict the aims and the spirit of both customary and codified international law.

A number of other controversial issues and arguments can also be raised. Currently, especially in the United States, there is a heated debate as to whether acts of terrorism differ from other human rights violations and crimes and thus necessitate the endorsement of special standards to prevent and fight them. A few countries such as Ireland, Turkey and the USA have anti-terror laws in which fast-track procedures have been introduced, as compared to the usual national penal procedures, and some human rights and freedoms are, as a consequence, curtailed. Following 11 September 2001, a renewal of an age-old debate of whether it is acceptable to torture terror-

ists (criminals) in order to save other people’s lives could be witnessed in many countries. The most recent discussions on the question of torture in the US Congress initiated in part by Senator McCain, himself a victim of torture during the Vietnam war, demonstrate the need of reinstating the principle of absolute prohibition of torture. In Germany in 2004, the Federal Constitutional Court judgement in the case of Wolfgang Daschner, a German police chief, who threatened the kidnapper of an 11-year-old boy with use of force in the hope to save the boy’s life once again firmly upholds the principle of absolute prohibition of torture and the impermissibility of exceptions or derogations under any circumstances. Closely related to this issue are questions as to whether victims are entitled to greater protection of their human rights than criminals and whether the life of a perpetrator of crimes or terrorist attacks has the same value as the life of any other human being.

There are no right or wrong answers amidst those complicated contradictions and unresolved moral dilemmas, but international lawyers consistently advocate the position that a duality of standards is unacceptable and that international legal standards should not be selectively applied and should be strictly respected.

Only in this way, many believe, can the spirit and function of international law as a guardian of world peace, human rights and human security and understanding among states be preserved.

#### 4. IMPLEMENTATION AND MONITORING

Since 1948, the international law provisions for the prohibition of torture and other forms of cruel, inhuman and degrading treatment have been substantially developed and improved. An increasing number of states have signed and ratified those international legal commitments and translated them into domestic leg-

isolation and practice. Strong regional systems for the prevention of and protection against torture have evolved (in Europe for example) and national inspection mechanisms (visits) have also emerged.

Internationally, the **UN Committee against Torture** and the **UN Special Rapporteur on Torture**, together with a large number of NGOs, monitor the implementation of the state commitments to prohibit torture and torture-like practices.

The **United Nations Committee against Torture (CAT)**, the UN monitoring body established in accordance with Art. 17 of the UN Convention against Torture, started with their work on 1 January 1988. CAT examines the reports by the state parties to the convention that are due to be submitted every four years; it can make an inquiry and request clarification or additional information related to the facts in those state reports. Additionally, a state can make a declaration to allow the Committee to consider **individual or inter-state complaints**, to examine them and to send to the author of the communication and to the state concerned its final views and recommendations for action. The United Nations Committee against Torture closely co-operates with the UN Special Rapporteur on Torture (☺ Good to Know), the European Committee for the Prevention of Torture and the United Nations Voluntary Fund for Victims of Torture. A full record of the work of the Committee is annually published and distributed.

#### Optional Protocol to UNCAT



The 57<sup>th</sup> UN General Assembly Session in New York in 2002 adopted the **Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** from 1984. The Protocol is designed to prevent torture and other forms of ill-treatment by establishing a regular system of visits to places of detention by inter-

national and national expert bodies. The Optional Protocol will therefore establish a new international expert visiting body, a Sub-Committee of the UN Committee against Torture. The Protocol also obliges states to establish national visiting bodies as well. Under supervision of the Sub-Committee, national bodies will regularly visit places of detention and make recommendations for improvement in the treatment of persons deprived of their liberty and also in the conditions of detention.

This focus upon prevention represents an innovative development within the UN human rights system, as existing international bodies can only act after a violation has occurred. Visits to places of detention are one of the most effective means to prevent torture and to improve conditions of detention. Through the Optional Protocol, for the first time in an international instrument, criteria and safeguards for effective preventive visits by national expert bodies are set.

This Protocol is therefore considered to be a real step forward in strengthening the international and national prevention mechanisms against torture and inhuman and degrading treatment. However, even though international legal safeguards for torture prevention abound, they are not fully implemented at the national level. It is imperative that national legislation provisions are harmonised with international standards and that national systems for monitoring and reporting are created. The full eradication of torture can only become a reality once the international standards that have been elaborated find their place in viable and impartial national implementation and monitoring systems in all UN member states on the national and local level. Furthermore, providing the victims of torture and inhuman and degrading treatment with rehabilitation, legal aid and compensation as well as assisting with their reintegration in societal life are all essential requirements for a just and fair national order.

It can be seen that there are three main aspects to the **effective prevention of torture**:

1. Establishing an **effective legal framework** and assuring its full implementation as well as applying appropriate safeguards for the prevention of torture - for example, fundamental safeguards in custody (access to lawyers, doctors, judges etc) and the prohibition of incommunicado detention;
2. Establishing **control mechanisms** and, in particular, national visiting mechanisms to places of detention, as well as providing for independent monitoring and reporting by civil organisations;
3. Ongoing **training** for those concerned, such as police officers, prison guards, lawyers, judges, medical doctors etc.

Everyone can be involved in torture prevention activities through action, campaigning, lobbying for ratification of the international instruments and their national implementation, through writing of letters and appeals. Through NGO work and volunteering, we can all contribute to awareness-raising and education activities in the family, in our local community or region. Last but not least, we can assist the victims of torture with knowledge of how their concerns can be addressed, we can support them by helping them report their cases and take legal action against the perpetrator(s).

## GOOD TO KNOW

### 1. GOOD PRACTICES



Today, there are numerous activities worldwide which belong to the tight network of initiatives to mobilise society against torture practices wherever they occur regularly, to educate others as a means to prevent inhuman treatment and offer legal assistance and physical and psychological rehabilitation to torture victims.

Many of the practices are grass-root and action-driven; others attempt to build local capacity and community knowledge as a means of prevention and protection. Last but not least, institutional capacity-building and improvement of legislation implementation play an important role in the process as well. All these levels are interconnected and indispensable, and initiatives are being undertaken on all of them.

### Good practices to prevent torture and ill-treatment can be:

- grass root, action-driven – campaigning, lobbying, awareness raising, educational activities on the local level;
- institution and capacity-building, influencing structures and institutions already in place, reforming them or building up new institutions with local capacity to deal with the problems.

### The Austrian Advisory Board for Human Rights

Set up in 1999 on the suggestion of the European Committee for the Prevention of Torture and Inhuman Treatment to advise the Minister of the Interior, the Austrian Advisory Board for Human Rights produces reports and recommendations addressing structural problems of

*“Open your newspaper any day of the week and you will find a report from somewhere in the world of someone being imprisoned, tortured or executed because his opinions or religion are unacceptable to his government. The newspaper reader feels a sickening sense of impotence. Yet if these feelings of disgust could be united into common action, something effective could be done.”*

**Peter Benenson**, Founder of Amnesty International.

Human Rights in all areas of activity of the Austrian police. It oversees six Human Rights Commissions, which can visit any place of police detention in Austria at any time without announcement. This has led to significant improvements in police detention centres (Source: **Menschenrechtsbeirat – Human Rights Advisory Board**: [www.menschenrechtsbeirat.at](http://www.menschenrechtsbeirat.at))

#### Activities of International Organisations

##### **The Special Rapporteur on Torture - Goals, Mandate and Activities**

The United Nations Commission on Human Rights, in resolution 1985/33, decided to appoint a special rapporteur to examine questions relevant to torture, to seek and receive credible and reliable information on such questions and to respond effectively to the information. The Special Rapporteur submits a comprehensive report on his or her activities to the Commission each year, reviewing the occurrence and extent of the practice of torture and making recommendations to assist Governments in stamping it out. The mandate of the Special Rapporteur covers all countries, irrespective

of whether a State has ratified the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

The mandate comprises three main activities: transmitting communications consisting of urgent appeals and allegation letters (alleged cases of torture) to governments; undertaking fact-finding missions (country visits) to countries where information suggests that torture may involve more than isolated and sporadic incidents; and submitting annual reports on the Special Rapporteur’s activities, mandate and methods of work to the Commission on Human Rights and the General Assembly.

Unlike the treaty monitoring bodies established under international treaties, the Special Rapporteur does not require the exhaustion of domestic remedies to act on individual cases involving a risk of torture (“urgent appeals”) or on alleged acts of torture (“allegations”).

Since 2004, the UN Special Rapporteur on Torture is Manfred Nowak from Austria. He already undertook visits to Nepal and China, whereas a visit to Guantanamo together with four other special

rapporteurs was cancelled because the U.S. authorities refused free access to the prisoners.

To submit information to the Special Rapporteur, you can write to:  
Special Rapporteur on Torture  
Office of the High Commissioner for Human Rights  
8-14, Avenue de la Paix  
1211 Geneva 10, Switzerland

(Source: **United Nations High Commissioner for Human Rights. 2002. Fact Sheet No. 4. Combatting Torture.**)

### **The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)**

#### ***Establishment***

The CPT was set up under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which was adopted in 1987. It began its work in 1989, when the Convention entered into force.

#### ***Membership***

Council of Europe member states. Since March 2002, it has also been possible for non-members of the Council of Europe to accede at the invitation of the Committee of Ministers.

The Committee is made up of doctors, lawyers and experts on police matters, prisons and human rights. The number of members corresponds to the number of states parties to the Convention. Since

March 2000, the President of the Committee has been the British criminologist Silvia Casale.

#### ***Terms of Reference***

The Committee carries out checks on the treatment of people deprived of their liberty. It examines police stations, prisons, psychiatric hospitals and all other places where people are detained, such as accommodation facilities for asylum-seekers in the transit areas of international airports. The Committee members have the right to speak to detainees in private.

#### ***Working Methods***

The Committee conducts periodic visits to all states parties and can also carry out ad hoc visits as necessary. Its findings are set out in confidential reports to the government concerned and recommendations are made. The confidentiality of the reports is an important basis for the Committee's credibility, and the permanent, constructive dialogue with governments has enhanced the CPT's international standing. The reports, together with the comments made by the governments concerned, can be published with the latter's agreement.

#### ***Possible Sanctions***

If the governments concerned refuse to cooperate or improve the situation in line with the Committee's recommendations, the CPT can exert political pressure by issuing a public statement. Up to now, it has exercised this power three times: in 1992 and 1996 concerning Turkey, and in 2001 concerning the Chechen Republic of the Russian Federation.

**CPT Visits and Reports**

As of 24 March 2006, CPT conducted 208 visits (129 periodic visits and 79 ad hoc visits) and published 154 Reports.

(Source: **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)**: <http://www.cpt.coe.int>)

**“... Because I Am Fourteen.**

It is hard for me to write about torture because I am only fourteen now. I do not want to think about it, because I am only fourteen. I have to think about it – my town and its people were tortured. That is why we have become known all over the world. My town was tortured but not killed. They tried to kill the Danube and Vuka, but they did not succeed. How could they kill the hearts of my town? Two rivers, like sisters: one old, one young. They tortured them with bombs and bullets. But they are still flowing, and their hearts are still beating. They tried to kill the trees and grass, but they were not able to. How could they kill the lungs of my town? They tortured them with fire and black smoke, but they are still breathing. I am back in Vukovar after all these years. I can still see tortured streets, houses, schools, churches [...] I feel freedom and peace, but deep down in my heart, I cannot forgive because I am only fourteen.”

(Source: **Essay written by a child in Vukovar and presented to the Center for Mental Health and Human Rights in Zagreb, Croatia**, on 26 June 2001.)

**Activities of Non-Governmental Organisations (NGOs)**

In 1997, the UN proclaimed 26 June an International Day in Support of Victims of Torture. Ever since, world-wide international networks for the prevention and prohibition of torture such as **CINAT**, the Coalition of International Non-governmental Organizations Against Torture, have been campaigning for the full eradication of torture. Many individuals and celebrities participate in those events.



The activities of **Amnesty International (AI)** world-wide are an example of a holistic approach to both grass-root and institution and capacity -building endeavours.

On 28 May 1961, the British lawyer Peter Benenson published the article „The Forgotten Prisoners“ in the newspaper *The Observer*, London, United Kingdom (UK) which inspired the creation of Amnesty International.



**Amnesty International** today, with an International Secretariat in London, has more than one million members, subscribers and regular donors in more than 140 countries. The AI movement consists of more than 7,800 local, youth, specialist and professional groups in approx. 100 countries and territories. Amnesty International is a democratic movement, self-governed by a nine-member International Executive Committee (IEC) whose members are elected every two years by an International Council representing sections. Campaigning, reporting on human rights issues, lobbying with governments on a specific human rights issue are activities which AI launches annually.

In 2001, AI launched the campaign „*Take a step to stamp out torture*“ against torture and ill-treatment of women, children, ethnic minorities, lesbians, gays, bisexual and transgender people.



By the end of the year, over 35,000 people from 188 countries had signed up on the torture campaign website, <http://web.amnesty.org/pages/stoptorture-index-eng>, to take action on urgent cases by sending e-mail appeals.

In October 2000, AI adopted the **12-Point Programme for the Prevention of Torture** which became a platform for international action to prevent torture and strengthen the mechanisms to protect against its occurrence and institutionalisation.

### 12-Point Programme for the Prevention of Torture



Amnesty International calls on all governments to implement the organisation's 12-Point Programme for the Prevention of Torture.

#### 1. *Official condemnation of torture*

The highest authorities of every country should demonstrate their total opposition to torture. They should make clear to all law enforcement personnel that torture will not be tolerated under any circumstances.

#### 2. *Limits on incommunicado detention*

Torture often takes place while the victims are held incommunicado - unable to contact people outside who could help them or find out what is happening to them. Governments should adopt safeguards to ensure

that incommunicado detention does not become an opportunity for torture. It is vital that all prisoners be brought before a judicial authority promptly after being taken into custody and that relatives, lawyers and doctors have prompt and regular access to them.

#### 3. *No secret detention*

In some countries torture takes place in secret centres, often after the victims are made to “disappear”. Governments should ensure that prisoners are held in publicly recognised places, and that accurate information about their whereabouts is made available to relatives and lawyers.

#### 4. *Safeguards during interrogation and custody*

Governments should keep procedures for detention and interrogation under regular review. All prisoners should be promptly told of their rights, including the right to lodge complaints about their treatment. There should be regular independent visits of inspection to places of detention. An important safeguard against torture would be the separation of authorities responsible for detention from those in charge of interrogation.

#### 5. *Independent investigation of reports of torture*

Governments should ensure that all complaints and reports of torture are impartially and effectively investigated. The methods and findings of such investigations should be made public. Complainants and witnesses should be protected from intimidation.

#### 6. *No use of statements extracted under torture*

Governments should ensure that con-

fessions or other evidence obtained under torture may never be invoked in legal proceedings.

**7. Prohibition of torture in law**

Governments should ensure that acts of torture are punishable offences under the criminal law. In accordance with international law, the prohibition of torture must not be suspended under any circumstances, including states of war or other public emergency.

**8. Prosecution of alleged torturers**

Those responsible for torture should be brought to justice. The principle should apply wherever they happen to be, wherever the crime was committed and whatever the nationality of the perpetrators or victims. There should be no “safe haven” for torturers.

**9. Training procedures**

It should be made clear during the training of all officials involved in the custody, interrogation or treatment of prisoners that torture is a criminal act. They should be instructed that they are obliged to disobey any order to torture.

**10. Compensation and rehabilitation**

Victims of torture and their dependants should be entitled to obtain financial compensation. Victims should be provided with appropriate medical care and rehabilitation.

**11. International response**

Governments should use all available channels to intercede with governments accused of torture. Intergovernmental mechanisms should be established and used to investigate reports of torture urgently and to take effective action against it. Governments

should ensure that military, security or police transfers or training do not facilitate the practice of torture.

**12. Ratification of international instruments**

All governments should ratify international instruments containing safeguards and remedies against torture, including the International Covenant on Civil and Political rights and its Optional Protocol which provides for individual complaints.



**Code of Ethics:** In Tokyo in 1975, the World Medical Association (WMA) adopted a **Declaration on Guidelines for Medical Doctors Concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment**. The WMA clearly voiced the position of the medical profession against torture and ill-treatment by proclaiming that “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.” A number of other national medical associations have elaborated their own codes of ethics against the involvement of doctors in torture and ill-treatment.

(Source: **The World Medical Association:** <http://www.wma.net>)

## 2. TRENDS

- The trade in instruments of torture such as shackles, leg irons, thumbscrews, whips and electro-shock technology has dramatically increased in the last 20 years. According to the 2001 “Stopping the Torture Trade” report of Amnesty International, the number of countries known to be producing or supplying electro shock equipment rose from 30 in the 1980s to more than 130 in 2000. In response to an initiative of the former special rapporteur against torture, Theo van Boven, the European Union in 2005 has introduced a ban on the trade with torture instruments.
- Currently, the prison populations are growing in almost all parts of the world. In a parallel development, the number of women and juvenile prisoners is increasing dramatically as well. In the last World Prison Population Report of the UK’s Home Office, an increase of 69% of the prison population has been registered in 200 independent countries and territories for the last 10 years. This increase certainly puts a strain on prison staff and management and necessitates further training, increased human rights awareness and more resources.

## 3. CHRONOLOGY

### **Prohibition of torture and other cruel, inhuman or degrading treatment or punishment - the building blocks**

- 1948** Universal Declaration of Human Rights
- 1949** The Four Geneva Conventions
- 1957** UN Standard Minimum Rules for the Treatment of Prisoners
- 1966** International Covenant on Civil and Political Rights
- 1979** UN Code of Conduct for Law Enforcement Officials
- 1982** 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
- 1984** UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- 1989** The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- 1990** UN Rules for the Protection of Juveniles Deprived of their Liberty
- 1998** Statute of the International Criminal Court
- 2002** Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

## SELECTED ACTIVITIES

### ACTIVITY I: **1** TORTURING TERRORISTS?

#### Part I: Introduction

Terrorism and torture of terrorists and perpetrators of crimes sparked a heated debate after 11 September 2001 in particular. A lot of people have voiced both their opinions and concerns, yet in different ways.

Through the proposed discussion, an attempt could be made to identify arguments for and against the questions posed, analyse them within the human rights principles framework, and discuss various other related issues.

**Type of activity:** discussion

**Discussion question:**

Is it acceptable to torture crime perpetrators or terrorists in order to save other people's lives?

#### Part II: General Information on the Discussion

**Aims and objectives:**

- opinion shaping, opinion sharing and defending;
- acquisition of knowledge and raising awareness of how a democratic society should deal with torture-related issues;
- demonstrating that human rights and rule-of-law provisions and norms can be a helpful framework for understanding complicated dilemmas.

**Target group:** young adults, adults

**Group size:** 10-12

**Time:** 90 min

**Preparation:**

- Collect recent local and international newspaper clippings, articles and photos, and prepare and copy a collection of the international and regional human rights standards on the prohibition of torture;

- Ask the participants to bring a topic-related item themselves;
- Alternatively, review the judgement in the German case of Wolfgang Daschner.

**Material:** coloured cards, copies of the material prepared, board or paper, markers

**Skills involved:**

- building argumentative and critical skills;
- communication skills;
- conflict management skills.

**Discussion rules:**

Before the discussion starts, ask the participants to design their own rules and make sure that the whole group agrees and accepts the proposed rules.

Post the rules visibly and consult them only when problems arise.

The facilitator has to make sure that the following two rules are included in the list the participants elaborate:

1. Only one person at a time should be speaking.
2. The group has to invent a sign through which to express disagreement or dissatisfaction in a respectful way.

#### Part III: Specific Information on the Discussion

**Introduction of the topic:**

As an introduction to the topic, please present in short the prepared newspaper clippings, contradictory statements by public officials, human rights documents and provisions connected with terrorism and the prohibition of torture, etc.

Divide the group into two and make sure that the groups examine and develop the arguments **for** or **against** in view of the universal human rights principles, moral and ethical considerations, etc.

**Discussion process:**

The discussion process has to be chaired with respect and sensibility. No participant should ever be given the feeling that her/his arguments or attitudes are inappropriate or foolish. Ask the participants to arrange the topic-related items they brought to the room.

Give time (45 min.) for smaller group work and formulating arguments.

Start the discussion by asking the participants to present their arguments and post them on the left (against) or the right (for) side of a line through the room. Ask whether all agree with the position of the proposed arguments and try to bring the group to discuss the differences in approach, the understanding and rationale of their positions.

(plan 45 min. to 60 min.)

**Feedback:**

After the discussion is over, please distribute to all participants a red and a green card, for example, and ask them to write down both their positive and negative feelings about the content and the organisation of the discussion. Finally, read the cards out loud and give time for reflection. As an alternative, participants might pin the cards on the wall or pin board.

**Methodological hints:**

- Always keep and make use, if needed, of a 5 minutes time-out (cooling down) option when the debate is heated and runs the risk of getting out of control;
- Give time for silent reflection when confusion or anger builds up;
- Try to summarise, clarify and mitigate arguments and do not take sides openly.

**Tips for variation:**

If you want to give more structure to the contents of the discussion you can give the participants a handout called “The Ladder of Torture”

- Someone has planted a bomb and admits it. We must torture to save lives.
- Someone is suspected of planting a bomb. We must torture to find out more.

- Someone is close to someone suspected of planting a bomb. We must torture the friend/relative to find out the bomber’s plans.
- Someone reports someone else who shares the same political views as the bomber. We must torture that political ally to find out about others who support him.
- Someone has refused to tell the police where a suspect is. This person must be tortured to make sure others don’t dare do the same thing.

**If you use this handout, it first leads to the questions of where to draw the line - when, if ever, could torture be justified?**

(Source: **Flowers, Nancy; et al. 2000.** *The Human Rights Education Handbook. Effective Practices for Learning, Action and Change.* Minnesota: Human Rights Resource Center of the University of Minnesota.)

**Part IV: Follow-up**

Related Rights/areas of further exploration: right to life, death penalty, human security

**ACTIVITY II:****A CAMPAIGN AGAINST TORTURE****Part I: Introduction**

Prevention of torture and other cruel, inhuman and degrading treatment and punishment, raising awareness about and changing torture-like practices and improving national legislation around the world; all require a lot of knowledge, creativity and understanding.

Through this activity, the participants will be encouraged to try to translate their knowledge into action through building up campaigning and persuading skills.

**Part II: General Information on the Activity Aims and objectives:**

- awareness raising;
- developing creative and innovative approaches to complex problems;
- inventing real life-applicable solutions and torture-prevention tactics and methods.

**Target group:** young adults, adults

**Group size:** 10-20 in groups of 4 or 5

**Time:** 150 min

**Preparation:**

- Collect examples of torture prevention activities put into practice locally, regionally, internationally;
- Introduce and clarify the elements of a potential campaign;
- Collect and prepare a copy of the relevant international and regional human rights standards on the prohibition of torture.

**Material:** coloured cards, copies of the material prepared, flip chart or paper, markers, shocking photos and stories of torture victims, etc.

**Skills involved:**

- creative thinking;
- persuasion and communication skills;
- conflict management skills.

**Part III: Specific Information on the Activity**

**Introduction of the topic:**

For warming up, ask the participants to share as many antonyms of torture as possible. Record all answers on a flipchart or board. Are there so many? How many can you think of?

**Activity process:**

Use brainstorming as a basis for defining the characteristics of a Torture Neighbourhood and a Torture-Free Neighbourhood (with less advanced groups, the facilitator has to prepare the definitions in advance). Then mark the two opposite corners of the room as a Torture Neighbourhood and a Torture-Free one. In advance, you can decorate both corners with posters, relevant journalistic materials, photos, etc.

Split the group into smaller groups (4-5 members max) and identify 1 messenger per group.

The purpose of the game is to transform the Torture Neighbourhood into a Torture-Free Neighbourhood through a torture awareness-raising campaign, posters, demonstrations, radio shows, theatre, lobbying, sports, etc. The groups will have 60 minutes to prepare the elements of their campaigning strategy. The messengers have to move among the other groups, negotiate with their members and help their own groups avoid duplications of work and ideas.

Use the last 45 minutes for presenting the group work.

**Feedback:**

Ask the participants one by one to characterise their experience with the exercise in one word or one phrase.

For a second round, you can ask them what they liked best and whether there was anything about the exercise they found disturbing.

Finally, you can close the session by encouraging them to share their ideas with the nearest AI section or other human rights NGO and try to put them into action.

**Methodological hints:**

- Let the participants be creative and avoid commenting or censoring any ideas;
- Try to summarise, clarify and mitigate arguments and never take a side.

**Tips for variation:**

Depending on the group you work with you should be very careful about exhibiting shocking details of torture photos or reports!

**Part IV: Follow-up**

Invite AI or other experienced local activists to share their experiences and eventually start a new group/campaign.

**Related rights/areas of further exploration:**

right to life, death penalty, human security

## REFERENCES

- Amnesty International. 2003.** *Combating Torture: A Manual for Action*. London: AI.
- Amnesty International. 1999.** Israel Supreme Court to Rule on Torture and the Holding of Hostages. AI Index: MDE 15/39/99, 25 May. Available online at: <http://t2web.amnesty.r3h.net/library/Index/ENGMDE150391999?open&of=ENG-2D2>
- Association for the Prevention of Torture (APT). 2005.** *Annual Report 2005*. Available online at: <http://www.apr.ch/pub/library/APT%20Annual%20Report%202005%20English.pdf>
- Association for the Prevention of Torture (APT). 2004.** *Monitoring places of detention: a practical guide*. Available online at: <http://www.apr.ch/pub/library/Monitoring%20Guide%20EN.pdf>
- Association for the Prevention of Torture (APT). 2002.** *Torture under International Law - Compilation of Standards*. Geneva: APT.
- Burgers, J. Herman and Hans Danelius. 1988.** *The United Nations Convention against Torture – A Handbook on the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*. Dordrecht: Martinus Nijhoff Publishers.
- Coyle, Andrew. 2002.** *A Human Rights Approach to Prison Management – A Handbook for Prison Staff*. London: International Center for Prison Studies. Available online at: [http://www.kcl.ac.uk/depsta/rel/icps/human\\_rights\\_prison\\_management.pdf](http://www.kcl.ac.uk/depsta/rel/icps/human_rights_prison_management.pdf)
- Danner, Mark. 2004.** *Torture and Truth: America, Abu Ghraib, and the War on Terror*. New York: New York Review of Books.
- European Court of Human Rights. 1999.** *Case of Selmouni v France from 28 July 1999*. Available online at: <http://www.echr.coe.int>
- Evans, Malcolm D. and Rod Morgan. 1998.** *Preventing Torture – A Study of the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment*. Oxford: Oxford University Press.
- Evans, Malcolm D. and Rod Morgan. 1999.** *Protecting Prisoners – The Standards of the European Committee for the Protection of Torture in Context*. Oxford: Oxford University Press.
- Evans, Malcolm D. and Rod Morgan. 2001.** *Combating torture in Europe – the work and standards of the European Committee for the Prevention of Torture (CPT)*. Strasbourg: Council of Europe Publishing.
- Giffard, Camille. 2000.** *The Torture Reporting Handbook*. Essex: Human Rights Center of the University of Essex. Available online at: <http://www.essex.ac.uk/torturehandbook/english.htm>
- Human Rights Watch. 2005.** *Torture: A Human Rights Perspective*. New York: The New Press.
- Inter-American Institute for Human Rights (IIDH). Optional Protocol. A Manual for Prevention.** Available online at: <http://www.apr.ch/pub/library/OPCAT%20Manual.pdf>
- Kellaway, Jean. 2004.** *The History of Torture & Execution: From Early Civilization through Medieval Times to the Present*. London: Mercury Books.
- Menschenrechtsbeirat – Human Rights Advisory Board:** [www.menschenrechtsbeirat.at](http://www.menschenrechtsbeirat.at)
- Niyizurugero, Jean Baptiste (ed.). 2003.** *Preventing Torture in Africa*. Geneva: APT. Available online at: <http://www.apr.ch/pub/library/Preventing%20Torture%20in%20Africa.pdf>
- Office of the United Nations High Commissioner for Human Rights. 2002.** *Fact Sheet No. 4 “Combating Torture” of the Human Rights Fact Sheet series*. Geneva: OHCHR.
- OSCE. Preventing Torture. A Handbook for OSCE Field Staff.** Available online at: [http://www1.osce.org/documents/odhr/1999/08/754\\_en.html](http://www1.osce.org/documents/odhr/1999/08/754_en.html)
- Popovic, Sabina. 1999.** *Torture, Consequences and Rehabilitation. A Manual*. Sarajevo: CTV.

**Rodley, S. Nigel. 2000.** *The Treatment of Prisoners under International Law*. Oxford: Oxford University Press.

**UN Doc. A/57/173** from 2 July 2002. *Report of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment.*

**UN Doc. A/56/156** from 3 July 2001. *Report of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment.*

**UN Doc. A/55/290** from 11 August 2000. *Interim Report of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment.*

**UN Doc. CAT/C/XXVII/Concl.5** (Concluding observations/comments) from 23 November 2001. *Conclusions and Recommendations of the Committee against Torture: Israel.*

**UN Doc. E/CN.4/2006/120** from 15 February 2006. *Report on Situation of Detainees in Guantanamo Bay.*

**UN Doc. E/CN.4/2003/69** from 13 January 2003. *Study on the situation in trade in and production of equipment which is specifically designed to inflict torture or other inhuman and degrading treatment, its origin, destination and forms by the Special Rapporteur on Torture.*

**United Nations. Economic and Social Council. 2004.** *Civil and Political Rights, including the Questions of Torture and Detention. Torture and other cruel, inhuman or degrading treatment. Report of the Special Rapporteur on the Question of Torture, Theo van Boven.* E/CN.4/2005/62. Available online at: <http://daccessdds.un.org/doc/UNDOC/GEN/G05/104/83/PDF/G0510483.pdf?OpenElement>

**United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:** <http://www.ohchr.org/english/law/cat.htm>

**Walmsley, Roy. 2002.** *Findings 188: World Prison Population List*, (4<sup>th</sup> edition). London: Home Office. Available online at: <http://www.homeoffice.gov.uk/rds/pdfs2/r188.pdf>

**Zamfara State of Nigeria Shari'a Penal Code Law from January 2000:** <http://www.zamfaraonline.com/sharia/introduction.html>

## ADDITIONAL INFORMATION

**Amnesty International USA:** <http://www.amnestyusa.org/stoptorture>

**Amnesty International:** <http://www.amnesty.org>

**Association for the Prevention of Torture:** <http://www.ap.t.ch>

**Canadian Centre for Victims of Torture:** <http://www.ccv.t.org>

**European Committee for the Prevention of Torture:** <http://www.cpt.coe.int/en>

**International Rehabilitation Council for Torture Victims:** <http://www.irct.org>

**No Torture:** <http://notorture.ahrchk.net>

**Special Rapporteur of the Commission on Human Rights on the question of torture:** <http://www.unhchr.ch/html/menu2/7/b/mto.htm>

**Stop Torture Campaign:** <http://web.amnesty.org/pages/stoptorture-index-eng>

**United Nations Committee against Torture:** <http://www.unhchr.ch/html/menu2/6/cat.htm>

**United Nations Special Rapporteur on Torture:** <http://www.ohchr.org/english/issues/torture/rapporteur>

**World Organisation against Torture:** [www.omct.org](http://www.omct.org)

