



# Reporting on Torture

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A handbook for journalists  
covering torture

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*Lawyers for Justice in Libya*

*Independent Medico-Legal Unit*

*Coordinadora Nacional  
de Derechos Humanos*

*REDRESS*

*Advocacy Forum-Nepal*

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*With the support of the European Union*

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# OI Foreword

Torture is one of the most horrific crimes that can be perpetrated against a human being. It aims to dehumanise through calculated acts of cruelty to remove victims' dignity and make them powerless. It tears at the soul of our human community and lessens us all when it occurs.

Prohibited in the strongest terms by international law, even in times of war or an emergency, it is illegal in most countries. Yet it is still highly prevalent, not only in the most repressive regimes. Between January 2009 and May 2013, Amnesty International received reports of torture and other ill-treatment committed by State officials in 141 countries, and from every world region.<sup>1</sup>

Justice demands that torture ends and that impunity for perpetrators is eradicated. Justice requires that torture survivors around the world receive the acknowledgement and remedies they deserve to move their lives forward with dignity. While these rights are widely enshrined in law, there are numerous practical difficulties in obtaining justice.

The media can play a vital role to sensitise the public on issues of torture, a crime that thrives in a situation of silence and behind the scenes. Through accurate reporting, journalists can increase awareness about the prevalence of torture, who is being targeted and why and who is carrying out the torture. Journalists

can also provide important insights into the impact of torture on the survivors and their communities and the many challenges that may be preventing survivors from achieving justice. More awareness about torture will help to promote dialogue on why it is happening and how it can be eradicated.

But many torture cases go unreported in the media. This is because survivors often don't come forward. There is still a great deal of shame associated with torture – survivors sometimes feel ashamed about how they reacted to the torture or afraid to reveal particularly degrading forms of torture that were perpetrated against them. Survivors know that parts of society will think that they must have done something wrong to have been subjected to the torture, even when they were targeted for reasons that were completely illegal or irrelevant or they were just in the wrong place at the wrong time. Survivors can also be afraid that they or their families will face repercussions if they speak about the torture.

<sup>1</sup> Amnesty International, "Torture in 2014: 30 Years of Broken Promises", AI Index ACT 40/004/2014, May 2014, p. 10.

Governments too are silent about torture practices, even in countries where torture is commonplace. Thus, information about torture tends to be hidden under the surface.

Journalists have an important role to play in breaking the silence and raising awareness. But, it will take careful sleuthing for them to uncover what is happening, to be able to interpret pieces of evidence and to report on it in an accurate way.

This handbook provides practical guidance to support journalists to report on torture. It addresses key questions relating to the definition of torture, when it happens, why it happens and what are the consequences. It also provides guidance on how to interview and interact with torture survivors in an appropriate way.

The information that follows is based on more than two decades of experience of five human rights organisations working to address the scourge of torture in a range of countries around the world and in a variety of different contexts. The information stems from the organisations' experience of interviewing and assisting thousands of torture survivors, and their work in the areas of litigation, rehabilitation, advocacy and training. It also stems from the typical questions asked by journalists when covering a torture story. We have tried to give answers in a simplistic but full way, to the typical questions that journalists tend to ask us.

The authors of this guide encourage its use to support interviews, research and reporting that is effective but at the same time ethical and sensitive, with the wellbeing of torture survivors taking foremost priority. It is hoped that through increased reporting on this grave international crime, there will be greater public understanding of the seriousness of torture and its impact on survivors. It is also hoped that increased reporting will generate more public resolve to eradicate torture in all its forms, no matter where it happens.

## 02 *What is torture?*

Torture is the calculated physical and/or psychological assault on the individual, a practice used to instil fear, punish or degrade, to dehumanise, to obliterate the self.

The United Nations **Convention against Torture**, the most widely ratified treaty on torture, provides that torture is

*“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.”<sup>2</sup>*

There is no exhaustive list of acts that may constitute torture: new methods of cruelty and degradation are invented all the time. However, common methods of torture include: severe beatings; extraction of nails or teeth; burns; electric shocks; stretching; suffocation; submersion in water; exposure to excessive light, noise, heat or cold; sexual aggression such as rape or other forms of sexual violence; forced administration of harmful drugs in detention or psychiatric institutions; prolonged denial of rest, sleep, food, water, adequate hygiene, medical assistance; total isolation and sensory deprivation; detention in perpetual uncertainty in terms of space and time; threats to torture or kill relatives; mock executions and mock amputations, and witnessing the torture of others.

<sup>2</sup> Article 1 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

In the Loayza Tamayo case against Peru, the Inter-American Court of Human Rights ruled that, “even in the absence of physical injuries, psychological and moral suffering, accompanied by psychic disturbance during questioning, may be deemed inhuman treatment. The degrading aspect is characterized by the fear, anxiety and inferiority induced for the purpose of humiliating and degrading the victim and breaking his physical and moral resistance ... That situation is exacerbated by the vulnerability of a person who is unlawfully detained ... Any use of force that is not strictly necessary to ensure proper behaviour on the part of the detainee constitutes an assault on the dignity of the person.”

Case of Loayza-Tamayo v. Peru (Merits) 17 September 1997, para 57.

In Nepal, many people who were accused of being Maoists were taken away by the military during the 10-year conflict, never to be seen again. This is what happened to eight Tharu youths who were taken from their homes in Bardiya District. They were aged between 14 and 23. Their families tried in vain to locate them. The United Nations Human Rights Committee recognised the deep anguish and stress caused to the families by the disappearance of their relatives, who never received sufficient explanation concerning the circumstances surrounding their deaths, nor did they receive their remains, which amounted to torture or ill-treatment.

Torture may be physical or psychological or both. Courts have also held that ‘enforced disappearances’, the disappearance and presumed killing of persons without any investigation or confirmation of the whereabouts of the body may constitute a form of continuing torture on the relatives.

## Key elements of the definition

### Severe pain or suffering

This is a typical question that is posed by journalists. The reference to “severe pain or suffering, whether physical or mental” has been understood to require a certain threshold of intensity. However, the threshold need not be ‘extreme’.

In the aftermath of the 11 September 2001 terror attacks when the US Government developed a programme of enhanced interrogation techniques, Jay Bybee, a former Assistant US Attorney General, gave a legal opinion in 2002 that severe pain is “serious physical injury, such as organ failure, impairment of bodily function, or even death.”<sup>3</sup> This opinion was widely criticised as giving an overly narrow and restricted definition of torture<sup>4</sup> and thereby giving license to Central Intelligence Agency (CIA) operatives and others to carry out acts that would amount to torture. It was eventually repudiated by the US Government.



The Abdel Hadi case, which involved torture and other abuses carried out by Sudanese officials at a displaced persons camp, concerned conduct ranging from severe beating with whips and sticks, doing the Arannabb Nut (rabbit jump), heavy beating with water hoses on all parts of their bodies, death threats, forcing them to kneel with their feet facing backwards in order to be beaten on their feet and asked to jump up immediately after, as well as other forms of ill-treatment, which resulted in serious physical injuries and psychological trauma. The African Commission on Human and Peoples' Rights found that "this treatment and the surrounding circumstances were of such a serious and cruel nature that it attained the threshold of severity as to amount to torture."

AccomHPR, Abdel Hadi, Ali Radi & Others v. Sudan, 5 Nov. 2013, para. 73.



In 2013 and 2014, there were allegations that guards perpetrated criminal sexual assaults in immigration detention centres in the United Kingdom that could amount to torture. Ill-treatment in this context could include inappropriate sexual conduct, refusing to give an individual access to medical treatment or to process their case if they refuse sexual advances.

In Libya, the period following the uprising has been characterised by fighting between different armed groups. These groups have become involved in the systematic perpetration of acts of torture and ill-treatment against perceived political opponents, activists, members of ethnic and/or religious minority groups and alleged Gaddafi loyalists.

Importantly, the characterisation of the severity of harm is ‘relative’; it depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim.<sup>5</sup>

### The involvement of a public official

Under human rights law, torture must take place by, or at the instigation of, or consent or acquiescence of, public officials. This will usually involve officials exercising public security functions, such as police, military, prison or detention authorities. However, it can also involve other types of officials who exercise control over individuals, such as hospital or mental health facility administrators, teaching staff, or officials at centres holding asylum seekers or refugees.

In certain circumstances the public official requirement has been understood to extend to persons holding de facto power as public officials, in the absence of any real government control, or where the government has contracted private security forces to carry out certain governance functions. So, in countries where there are militia or rebel forces in charge of certain areas or certain functions, these persons can be responsible for torture too.



States are also required to protect persons from acts causing severe pain or suffering, even when those acts are carried out by private persons. An example of this may be prisoner-on-prisoner violence; if the prisoner guards do not intervene to prevent this kind of behaviour, when they had the power to intervene, the State will be responsible for the ensuing harm.

Another example can be racist or homophobic attacks; if the authorities though present at the scene, failed to intervene, they will be responsible. In Peru, one young transsexual was severely beaten by five civilians, who cut his face with a broken bottle, while two police officers did nothing to stop the attack. These officers are now under investigation for torture.

This same principle has also been interpreted to impute an obligation on the State to prevent domestic violence and other violence against women and children. States are also responsible when they use private militia or security companies who then perpetrate violence on the population, or when they collaborate or are complicit in the acts of another state in the torture or ill-treatment of individuals.

Under international humanitarian law (the laws of war and armed conflict), the notion of torture is not limited to acts involving State officials. In these circumstances, the characteristic trait of the offence is to be found in the nature of the act committed rather than in the status of the person who committed it. War crimes tribunals and criminal courts have convicted perpetrators of torture even when they had no connection to the State.

Albert Wilson was on death row in the Philippines. During that period, he was subjected to constant beatings by other prisoners. The UN Human Rights Committee found that the violent and abusive behaviour both of certain prison guards and of other inmates, as apparently acquiesced to by the prison authorities, are seriously in violation of the author's right, as a prisoner, to be treated with humanity and with respect for his inherent dignity. As at least some of the acts of violence against the author were committed either by the prison guards, upon their instigation or with their acquiescence, there was also a violation of the right to be free from torture and ill-treatment.

<sup>3</sup> Bybee, J. (2002), "Memorandum for A. Gonzales... [Re:] Standards for Conduct for Interrogation under 18 U.S.C. 2340-2340A", United States, Department of Justice, Office of Legal Counsel.

<sup>4</sup> Manfred Nowak, "What Practices Constitute Torture: US and UN Standards, 2(2006) 8 Human Rights Quarterly 809, at: <http://faculty.maxwell.syr.edu/hpschmitz/PSC354/PSC354Readings/NowakTorture.pdf>.

<sup>5</sup> European Court of Human Rights, *Selmouni v. France* (Grand Chamber), Judgment, 28 July 1999, para. 100.

## The need for a specific purpose

There is a requirement for torture to be inflicted for a specific purpose, but this has been interpreted widely. Some of the kinds of purposes that have been recognised include: to produce a confession, as a form of punishment, to intimidate the population, to humiliate the victim or to discriminate.

Sometimes, the prohibited purpose has been implied. The suggestion that the rape by a person wielding power or authority, or a rape that takes place in a prison, happened for simple private sexual gratification purposes, has not been accepted. When the context is highly coercive or there is a distinct imbalance of power, the prohibited purpose can be implied.

In a Peruvian torture case before the Inter-American Court of Human Rights, the Court determined that the acts were planned and inflicted deliberately upon the victim for at least two purposes: "Prior to his conviction, the purpose was to wear down his psychological resistance and force him to incriminate himself or to confess to certain illegal activities. After he was convicted, the purpose was to subject him to other types of punishment, in addition to imprisonment."

Cantoral Benavides v. Peru (Merits) 18 August 2000, para 104.

In Kenya, some cases of torture occur when officers attempt to extract confessions by force. Sometimes officers torture suspects to extort bribes. Hawkers and street vendors have also been subjected to violence by police, to curb their trade.

Similarly, in Peru, torture and ill-treatment are often used by authorities as a way to obtain information or as a form of punishment for acts allegedly committed or as a form of threat or extortion in illegal police interventions. The punishment of persons in detention is common. Most of these cases are not reported or recorded.

## Where does torture occur?

Torture often takes place during the initial phase of arrest and detention, thus often in the hands of police, military or other security agencies and may be in official places of detention such as police stations, or in unofficial (or 'secret') locations used to perpetrate torture.

But torture is not just limited to what happens in the interrogation room. It may also relate to specific elements of the conditions of detention which are constructed to deliberately aggravate mental and physical suffering. Harsh conditions of detention (including inadequate or insufficient food, hygiene, access to toilets, and access to medical care) may contribute to and form part of the ill-treatment that may in some cases constitute torture.

"Each of the rooms has its own vent that connected to a common machine that seems to be a generator. The ducts, looking like they innocently were used to give fresh air to victims were used as torture gadgets, blowing in ice cold air, hot air and thick dust intermittently to coerce 'prisoners' to speak. One of the 13 rooms, however, is painted a pale red with some streak shadows peeping underneath. We are told that this sole red room was painted to cover up blood that had stained the walls. One of the torture victims was apparently banged on the walls repeatedly until he died. These are not just rooms that were converted for torture reasons; they were part of the architecture of the famed Nyayo house as it was being built in 1984. Security agents rounded up men and women in varied times, people they considered a threat to the then dictatorial regime and used the chambers to torture them and coerce them to admit knowledge of the work of the movement suspected to have been planning to

overthrow the government. At the entrance to this hall of shame was a lift, space that is now shielded with heavy metal doors, where after the basement torture, victims would be taken to the 24, 25 and 26 floors to be interrogated by a panel of men, where more beatings would befall them."

Extract from Lynesther Mureu, "The dark days unforgotten - The Nyayo torture chambers", 22 March 2014 [Kenya National Commission on Human Rights]





"Ali al-Akermi spent 18 years, from October 1984 until September 2002, in the notorious maximum-security prison of Abu Salim in Tripoli. The name still evokes nightmares for many Libyans because of the harrowing accounts of torture and other ill-treatment that have emerged from within. 'Torture was regular and systematic behaviour inside military police prisons,' Ali said. 'They would open our knees with razor blades and put salt on the wounds to dissolve it. Teeth and nails were extracted.' Other times, he said, iron rods were heated with flames then inserted into prisoners' anuses. The guards also set loose trained military attack dogs against inmates. Most prisoners were regularly beaten for no reason. Others were threatened at gunpoint; often they were told that their whole family would be sexually abused in order to extract forced confessions from them.

Today the oppressive concrete building that housed Abu Salim Prison stands derelict. Its bleak walls are covered in graffiti showing the names of some

of those who died during a massacre that took place in the prison on 29 June 1996 in which around 1,200 people are believed to have been killed. Hundreds of men were taken to the courtyards and extra-judicially executed during the incident as punishment for a riot that had broken out in the prison earlier that day. Ali was present in the prison at the time and heard the gunshots ring out. 'Lawyers, university professors, doctors were killed in cold blood that day,' Ali said. Other prisoners watched from the windows as the bodies of those killed were collected and dumped in a collective grave. Although it has been 18 years since the mass killing at Abu Salim Prison the truth about what exactly happened that day, including to the bodies, needs to be established. Those responsible need to be held accountable.

Ali spent much of his time at Abu Salim in a cramped cell in squalid conditions. The prison cells were overrun with insects and rats and there was no toilet. Prisoners were forced to ask

the guards for milk cartons to urinate in. 'Sometimes we used the same cups for drinking and passing urine,' he said. The stench within the cells was so strong that guards would cover their mouths and noses with a scarf when they had to enter. Food was scarce and was often burned or infested with insects."

Extract from Amnesty International, "Rising from the shadows of Abu Salim Prison", 26 June 2014.

## 02 What is torture? | *Where does torture occur?*

Torture can also take place outside of detention – at military checkpoints or during public protests, or in the context of an armed conflict. In *Egyptian Initiative for Personal Rights and Interights v. Egypt*, the African Commission on Human and Peoples’ Rights found that riot police were responsible for assaults, including of a sexual nature, on four female journalists during a demonstration (by means of directing private individuals to carry out the attacks and failing to intervene to prevent them).

Some of the journalists were covering the protests, another one was participating, and another was simply a bystander. The assaults resulted in bruises, scratches and emotional trauma. According to the African Commission, the assaults to each were “debasing and humiliating, sufficiently severe to fall within the ambit” of inhuman and degrading treatment. Furthermore, the Commission found that the assaults were part of a deliberate discriminatory attack on women, in violation of the prohibition of discrimination:

“It is clear that the incidents alleged took place in a form of a systematic sexual violence targeted at the women participating or present in the scene of the demonstration. Furthermore, perpetrators of the assaults seemed to be aware of the context of the Egyptian society; an Arab Muslim society where a woman’s virtue is measured by keeping herself physically and sexually unexposed except to her husband. The perpetrators were aware of the consequences of such acts on the Victims, both to themselves and their families, but still perpetrated the acts as a means of punishing and silencing them from expressing their political opinions.”<sup>6</sup>



In Peru, the excessive and arbitrary use of force has become a way for the Government to deal with social conflict. According to CNDDHH, between 2011 to 2016, there were 50 deaths in the context of public protests and 727 people were injured (this number could actually be higher because many of the cases are not reported and thus not recorded). About 1 out of 10 victims were minors. The National Police is understood to be responsible for 77% of these cases while the remaining 13% of the cases involved the armed forces.



## 03 *How prevalent is torture?*

Some might think that torture is a phenomenon that occurs only in countries with the most repressive regimes. But in fact, torture is widespread in many parts of the world.

Over a period of just over four years, Amnesty International recorded reports of torture and other ill-treatment committed by State officials in 141 countries, from every world region. But the actual prevalence is likely to be far higher, since this figure only includes reported cases.

In one year alone Amnesty International noted that at least 79 countries that have ratified the UN Convention against Torture were carrying out torture, which is more than half of the States Party to the Convention. While some were documented as isolated and exceptional cases, many countries practice systematic torture.

The National Prevalence Survey carried out by IMLU in 2011 found that 53% of Kenyans believe that torture is still very common. The same study revealed that poverty is one of the key drivers of torture in Kenya as poor people are more vulnerable to torture as compared to the rest of the population.









## 04 *Who are the survivors of torture?*

Those who suffer torture come from all walks of life. Some may have been tortured while working abroad or on holiday. Others are victims of political repression or conflict. Still others were simply in the wrong place at the wrong time. Nobody should be considered immune.

However, patterns of government-sanctioned violence are often observed towards particular political, religious, ethnic or minority groups. Frequent victims of torture include political activists and human rights defenders and their families, civilians targeted in armed conflict (including women or child soldiers), individuals suspected of crimes and tortured to ‘confess’ to help ‘solve crimes’, socially excluded individuals (including minority groups, sex workers or migrants) and people in detention.

Often, torture will also shatter the lives of victims’ loved ones: the effects of torture rippling from individual survivors to families and communities, ultimately affecting society as a whole.

“M” is a black Libyan national of Tawerghan descent. A group of armed men belonging to a militia group cordoned off his house, then “arrested” him and his relatives. They called “M” a slave and a mercenary and accused him of being affiliated with the former Gaddafi regime. “M” was taken to the headquarters of the militia group and severely tortured, he was then taken to a prison where he was subjected to electric shocks, burns and beatings and intimidating threats. He was also attached to and pulled by a car in the yard, and witnessed executions.

## 05 *What impact does torture have on survivors?*

It is often said that anyone who has been tortured remains tortured, long after the physical wounds have healed. For all those who have undergone the horrors of torture, even the most determined, the process of recovery is a long and uncertain journey.

Most, if not all torture survivors will suffer long-term psychological symptoms, including nightmares, difficulties with memory or concentration, persistent feelings of fear and anxiety. Sometimes these symptoms meet the diagnostic criteria for severe conditions such as post-traumatic stress disorder (PTSD) and major depression, both of which require urgent attention. PTSD is an anxiety disorder characterised by nightmares, flashbacks, insomnia, and feelings of isolation, irritability and guilt among other symptoms. At the same time, however, many survivors show formidable strength and resolve to regain control of their lives or fight for the justice they deserve.

Long-term physical health issues are also common among torture survivors, such as permanent disability and chronic pain. However, one common misconception is that victims of torture must bear visible scars on their faces or bodies. This is not always the case, as torturers often use methods that leave no physical marks, or prefer to apply psychological torture, to limit the traces of their crimes and make it harder to document and verify torture.

It is important to remember that torture affects people in different ways. For example, the use of sexual violence as a method of torture will have a profound but different impact on men and women. Cultural and religious beliefs will intensify the effect of certain acts of cruelty, e.g., the desecration of religious objects, forced nudity or the forced adoption of sexual postures.

Torture also impacts the socio-economic status of survivors as a good number of them are unable to continue working and earning a living. Consequently they are made to depend on the support of family. In the instance where the survivors are the sole breadwinners, their families are pushed to live a life of poverty.

While medical and psychological support is essential to the empowerment, successful integration and recovery of torture survivors not all survivors may have received or may be receiving rehabilitation services; some may have discontinued treatment or never have received any medical or psychological support at all.

"When you've been tortured you feel very isolated because some people will think, well for that to have happened you must have done something very wrong. You trust very few people. Over the process of time you've lost all your so-called friends and acquaintances because they don't want to be associated with someone who's hit problems like this. You find it rather difficult to cope with anything, even to focus. You hear a noise, or you have to go in an elevator lift and there are echoes and triggers of what happened to you. You go into a syndrome of traumatic reminders - smells, crowds, shouting, bustling - things like that."

REDRESS' founder, Keith Carmichael, who was tortured in Saudi Arabia

"I've been tortured physically and mentally and in every way I am disabled. I'm disabled in giving the love to my wife and children. Our children need to play with me, but I can't do it. I'm looking to go away from this life and say, 'don't think about me again'. I see them torture our people, I see the blood on the walls, I don't sleep because I hear the guard opening the door. Still I hear them tell me 'you're nothing, you're nothing'. This is my life now, because of nothing. They put me in prison for nothing."

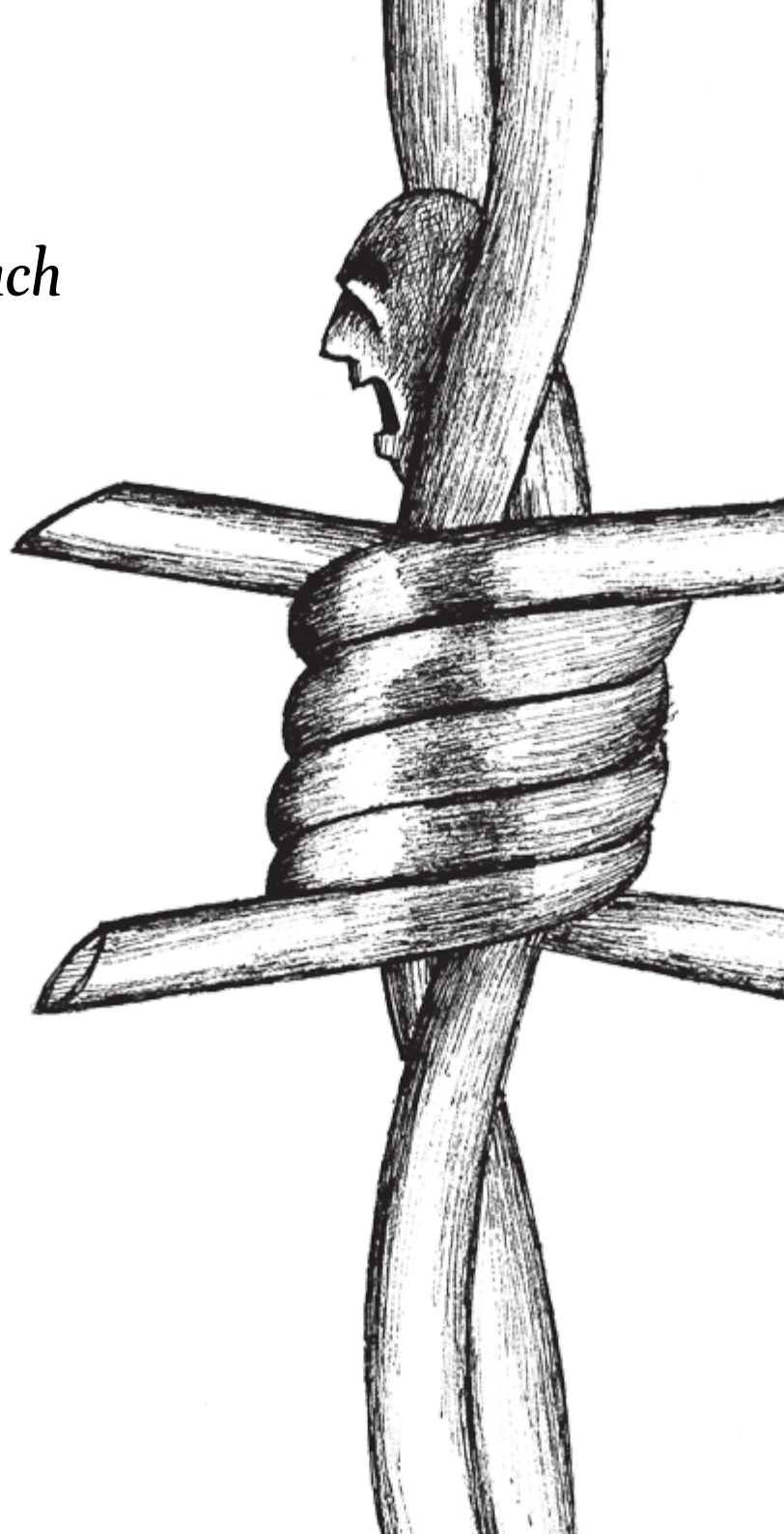
Torture survivor from Bahrain

## 06 *Why is torture such a serious crime?*

Torture is understood to be such a serious crime because it is premised on cruelty and abuse of power.

The officials who have the mandate to protect – such as the police or the military, are using their positions of power to abuse some of the most vulnerable individuals in society. When a person is subjected to some kind of violence, normally that person would try to report the violence or turn to an authority figure to ensure that the violence will stop.

Where to go when the violence is being carried out by those authority figures? It is this conundrum which makes torture so awful – it undermines faith in the rule of law and good governance, and puts the victims in the position where they feel no one can help them – complete and abject powerlessness.



## 07 *What are the key obligations of States?*

### Not to torture, ever

Torture is never allowed, ever. This is reflected in all the international and regional treaties that prohibit torture and in all the jurisprudence that has tackled this issue.

The reason why torture is ALWAYS prohibited is because to torture is to perpetrate violence and cruelty by the State. The concept of human rights means that everyone – no matter who they are and what they are suspected of, regardless of whether we fear them, don't understand them or see them as different or 'bad' – has the same rights. Human rights are about solidarity of the human race; respect for human rights underscores our faith in humanity.

"No exceptional circumstances whatsoever may be invoked by a State Party to justify acts of torture in any territory under its jurisdiction. The Convention identifies as among such circumstances a state of war or threat thereof, internal political instability or any other public emergency. This includes any threat of terrorist acts or violent crime as well as armed conflict, international or non-international. The Committee is deeply concerned at and rejects absolutely any efforts by States to justify torture and ill-treatment as a means to protect public safety or avert emergencies in these and all other situations. Similarly, it rejects any religious or traditional justification that would violate this absolute prohibition."

United Nations Committee against Torture, "General Comment No. 2: Implementation of article 2 by States Parties", para. 5.

“The Special Rapporteur has recently received information on certain methods that have been condoned and used to secure information from suspected terrorists. They notably include holding detainees in painful and/or stressful positions, depriving them of sleep and light for prolonged periods, exposing them to extremes of heat, cold, noise and light, hooding, depriving them of clothing, stripping detainees naked and threatening them with dogs. The jurisprudence of both international and regional human rights mechanisms is unanimous in stating that such methods violate the prohibition of torture and ill-treatment.”

Report of the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/59/324, 1 September 2014, para. 17.

But still, there are some who argue that torture should be allowed in some circumstances. Some governments when responding to terrorism and national security threats have sought to blur the debate on torture, arguing that there may be instances when it is justifiable, that certain practices are not so bad and should not be considered as torture, that certain people are so ‘bad’ that the normal laws should not apply to them and that evidence obtained by torture can be used before a court of law.

An argument often used relies on a hypothetical ‘ticking bomb’ scenario, usually involving the arrest of a terrorist who has placed a bomb somewhere and whose torture seems to be necessary so the suspect discloses information to prevent the deaths of thousands of people. This utilitarian argument suggests that it may be better if one terrorist is tortured if that will mean that innocent lives can be saved. There are a lot of flawed assumptions in the argument which underscores why torture can never be justified:

- Can we really be sure that the person being tortured is a ‘terrorist’? How can we know for sure? Usually the persons are simply suspected of having links with terrorists – is that enough? Who decides? Is it right for an intelligence officer operating in a clandestine environment to take the decision that a person is a ‘terrorist’ and proceed to torture them?
- What if the supposed terrorist dies, but before he dies, he tells his 12-year-old innocent daughter the location of the bomb, and she swears she will tell no one. Is it acceptable to torture the innocent daughter to get the information? Do the utilitarian arguments still hold when the person being subjected to torture is not portrayed as an evil person who ‘deserves no rights’?



- Can we really be sure that the person being tortured has information to tell, and that this information will prevent a bomb from going off? When happening in real time, this proposition is preposterous. A person being tortured will say and confess to anything to stop being tortured. This does not mean that what they say will be true, or will be capable of stopping a bomb from going off. There is no evidence that torture has produced valuable intelligence. In reality, professional investigators have repeatedly stressed that torture produces unreliable information and that there are more effective methods of obtaining information.

## To prevent torture

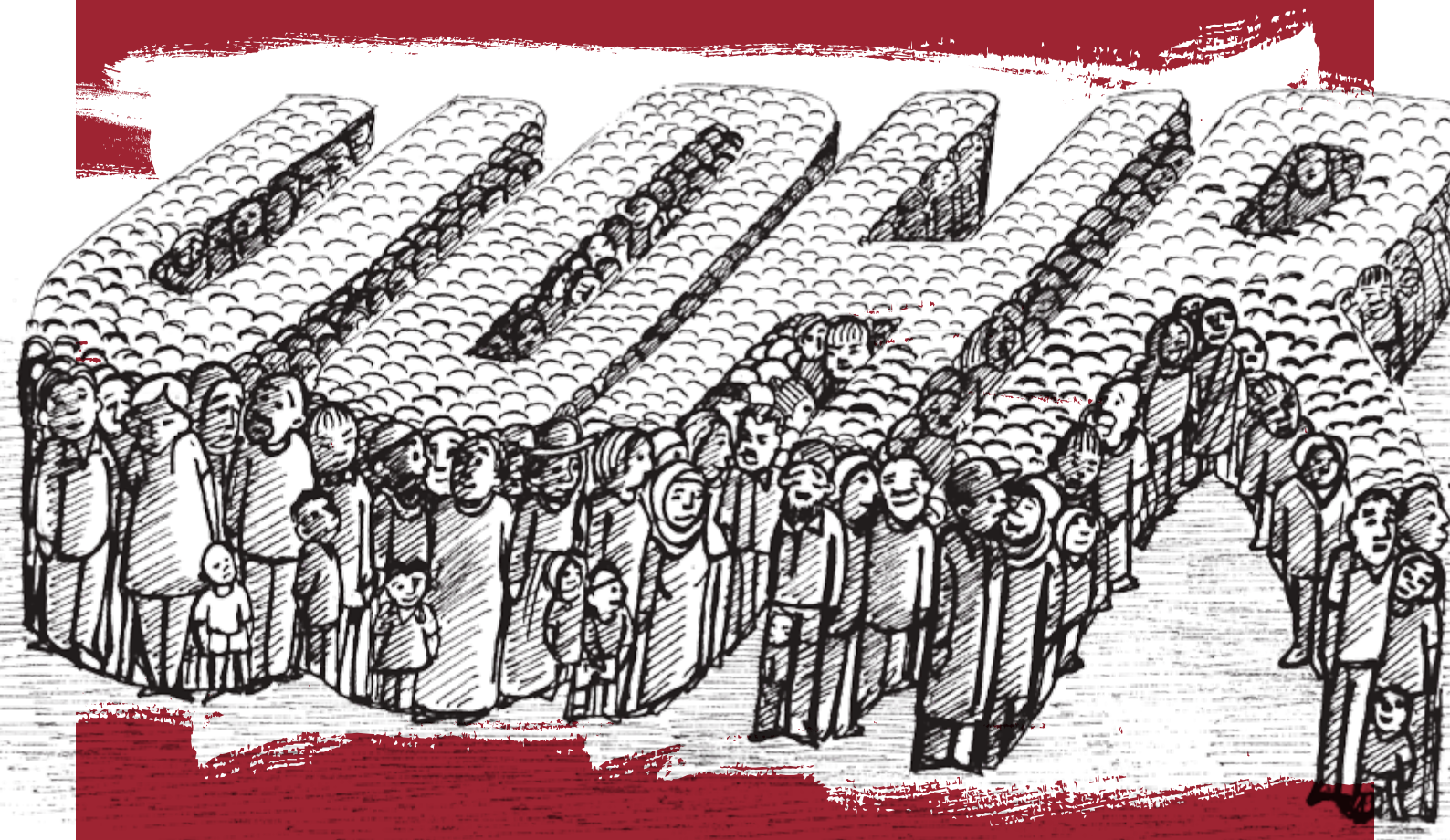
All States must prevent torture from happening. This is an obligation set out in all treaties that deal with torture. It is a ‘positive’ obligation, meaning that States cannot just do nothing and hope that torture never happens – they must take active steps to make sure that torture doesn’t happen.

*What are the types of steps that States should take to prevent torture?* The steps to be taken will depend on the country and the nature of the torture problem, but the best practice on prevention includes several tried and tested components:

## Introducing effective safeguards to prevent abuse

Some of the most important safeguards include: making sure that detainees have a right to see a lawyer upon their arrest; the right to an independent medical examination; access to family; and ensuring they are brought before a judge within a short period of time (24 hours). Other safeguards which are equally important include: requiring that all interrogations and confessions are videotaped; making sure that detainees are only held in official places of detention and that their detention is recorded; putting in place mechanisms to allow victims to safely complain about their treatment and making sure that torture confessions cannot be used in legal proceedings.

07 What are the key obligations of States? | *To prevent torture*



## **Changing the attitudes of law enforcement**

Torture can be prevalent because of the attitudes of law enforcement or other officials and the prevailing stereotypes they employ to characterise segments of society. Changing these attitudes and behaviour will be important to address the underlying discrimination, biases and violence that underpin many torture cases.

Being a suspect of a crime does not make a person guilty. Being a homosexual or other sexual minority is not a licence for abuse. Public officials are supposed to serve all members of the public whoever they are and whatever they look like. A law enforcement official has power over the offender and this power must be exercised responsibly. True power is about mutual respect, not a show of brute force. Confessions that result from torture are unreliable and will not hold in court – torture is counterproductive.

## **Introducing effective independent monitoring mechanisms**

Torture usually happens in isolated places like interrogation cells and prisons. Monitoring these places by carrying out regular, unannounced, independent visits helps to ensure that torture doesn't happen.

## **Investigating and prosecuting torture cases**

Torture happens because the perpetrators feel like they are untouchable and above the law. Investigating and prosecuting torture cases is therefore an important way to prevent torture. It reminds would-be perpetrators that there will be serious consequences when they torture. It serves as an important disincentive to torture.

## To prosecute torturers

All acts of torture must be investigated and prosecuted. States should ensure that a specific offence of torture is included in domestic law and that all complaints and suspicions are investigated. Where there are reasonable grounds to believe torture has taken place, the alleged perpetrator must be prosecuted.

- *But what if the victims don't have evidence?* The competent local authorities have the obligation to collect the evidence, not the victims. Authorities have a good faith obligation to seek out all relevant information about what the victim says took place and the investigation should be capable of arriving at the truth. This involves questioning witnesses, taking forensic evidence from the victim, examining custody records and other materials. The victim should not have to pay for the crime to be investigated, and should not be blamed for not having evidence that will usually be in the possession of the authorities.
- *But what if the torturer was just following orders?* Following orders is not an excuse to torture. Both the person giving the orders and the person carrying out the orders can be prosecuted for torture.
- *But what if the torturer is found outside the country where the torture happened?* States are obliged to prosecute alleged perpetrators of torture who are found in their territory, irrespective of their nationality or where the crime was committed, where it is not possible to extradite them to another country where they will be prosecuted.

In 2005, an Afghan warlord – Faryadi Zardad – was found guilty of torture following a trial which took place in London, where he was living. Zardad was described as being responsible for a “heinous” campaign of torture and hostage taking in Afghanistan at checkpoints between 1991 and 1996. At the trial, the jury heard evidence from Afghan witnesses via a video link from the UK embassy in Kabul, the Afghan capital.

On 30 May 2016, former Chadian President Hissène Habré was convicted of torture, crimes against humanity and war crimes before the Extraordinary African Chambers, a special court set up in Senegal where Habré had been living.

## To afford reparations

Victims of torture must be able to obtain redress and have an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible.

Reparations are measures that try to address the wrongs suffered by victims of human rights abuses. They aim to erase all the consequences of the violation and re-establish the situation, which would, in all probability have existed if the violation had not occurred. But it is not always possible to put the victim back to the position before the violation: some human rights violations cannot be undone.

In those cases, States must afford reparations which are adequate and effective and correspond as much as possible to the harm that was caused.

In some cases, the situation which existed before the violation was a situation of marginalisation which led to the torture in the first place. For instance, wide scale rape and torture of women and girls during conflict is a symptom of their marginalisation in society. To return them to where they were, before the violation, would be to return them to a situation of marginalisation – which may well lead to further violations. Instead, it is important that reparations go further and seek to tackle the causes of marginalisation in order to prevent recurrence.

“Reparation must go above and beyond the immediate reasons and consequences of the crimes and violations; they must aim to address the political and structural inequalities that negatively shape women’s and girls’ lives.”

Nairobi Declaration on Women’s and Girls’ Right to a Remedy and Reparation, adopted 21 March 2007, Principle 3(h).

## 07 What are the key obligations of States? | *To afford reparations*

A common misconception is that reparation is synonymous with compensation. Compensation is a common form of reparation, and includes any quantifiable damage resulting from the crime, including physical or mental harm, such as pain, suffering and emotional distress; lost opportunities, including education; material damages and loss of earnings, including loss of earning potential; harm to reputation or dignity; and costs required for legal or expert assistance, medicines and medical services, and psychological and social services.

However, compensation is not the only form of reparation. Other forms of reparation may include revelation of the truth, public acknowledgment of the facts and acceptance of responsibility, prosecution of the perpetrators, search for the disappeared and identification of remains, the restoration of the dignity of victims through commemoration and other means, activities aimed at remembrance and education and at preventing the recurrence of similar crimes.

Often, torture survivors have a lot of difficulty to assert their right to reparation. This is because States can put a lot of obstacles in their way, making it difficult for them to make claims, ignoring or undermining those claims or failing to enforce the court decisions. Under Article 14 of the Convention against Torture, States are obligated to make it as easy as possible for victims to exercise their right to reparation.

In Nepal, a victim of torture must file a complaint within 35 days of the date of his or her torture or ill-treatment, or upon release from detention, which impedes many victims from making a claim. In addition, there is an arbitrary cap of NPR 100,000 (approximately USD 1,500) on compensation, preventing victims from receiving adequate, effective and proportionate reparation.

S.A., who was raped by Congolese military, won a reparations judgment before a Military Court in the Democratic Republic of the Congo which found the rapist and the Congolese State jointly and severally liable. However, bureaucracies and inefficiencies have made it impossible for her to enforce the judgment and to date she has not received her compensation. The procedural hurdles were so extensive that

she brought a claim to the African Commission on Human and Peoples' Rights, arguing that her right to reparation was being prevented by the State.

"States parties to the Convention have an obligation to ensure that the right to redress is effective. Specific obstacles that impede the enjoyment of the right to redress and prevent effective implementation of article 14 include, but are not limited to: inadequate national legislation, discrimination with regard to accessing complaints and investigation mechanisms and procedures for remedy and redress; inadequate measures for securing the custody of alleged perpetrators, State secrecy laws, evidential burdens and procedural requirements that interfere with the determination of the right to redress; statutes of limitations, amnesties and immunities; the

failure to provide sufficient legal aid and protection measures for victims and witnesses; as well as the associated stigma, and the physical, psychological and other related effects of torture and ill-treatment. In addition, the failure of a State party to execute judgements providing reparative measures for a victim of torture, handed down by national, international or regional courts, constitutes a significant impediment to the right to redress. States parties should develop coordinated mechanisms to enable victims to execute judgements across State lines, including recognizing the validity of court orders from other States parties and assisting in locating the assets of perpetrators."

UN Committee against Torture, General Comment No. 3: Implementation of Article 14 by States Parties, 3 December 2012, para. 38.



## Not to send someone to a country where they are likely to face torture

States are prevented from sending a person to another country or place where they may be tortured. This is known as the principle of non-refoulement.

Under this principle, a State must deny a request for extradition, prevent a person from being deported and allow the person to stay in the country if to do otherwise would put them at a real risk of being tortured. States are also prevented from using indirect means of refoulement – for instance, where all basic assistance and support is cut off from the person or they risk indefinite detention, to the point where life becomes impossible.

The principle is very similar to that which requires States to allow persons who have a well-founded fear of persecution (refugees) to obtain asylum. Under the Convention against Torture, there are no exceptions – there are no circumstances when a person can be forced to leave a country if that would lead to a real risk that they would face torture. Some States have argued that they should be allowed to deport terrorist suspects even if doing so would put them at risk of torture. For the most part, courts have disagreed.

In *Chahal v. the United Kingdom*, the European Court of Human Rights ruled that the prohibition against torture and ill-treatment is “absolute in expulsion cases. Thus, whenever substantial grounds have been shown for believing that an individual would face a real risk of being subjected to treatment contrary to Article 3 if removed to another State, the responsibility of the Contracting State to safeguard him or her against such treatment is engaged in the event of expulsion ... In these circumstances, the activities of the individual in question, however undesirable or dangerous, cannot be a material consideration.”

*Chahal v. the United Kingdom*,  
Appl. No. 22414/93, 15  
November 1996, para. 80



## 08 *Typical responses States give when asked about torture (and our responses)*

**We abhor torture. Our country is absolutely and resolutely opposed to torture**

Statements of principle are important but the proof is in the action. If you hate torture so much, you would do everything possible to ensure that it wasn't happening and you would scrupulously investigate all allegations of torture. Action is more important than words.

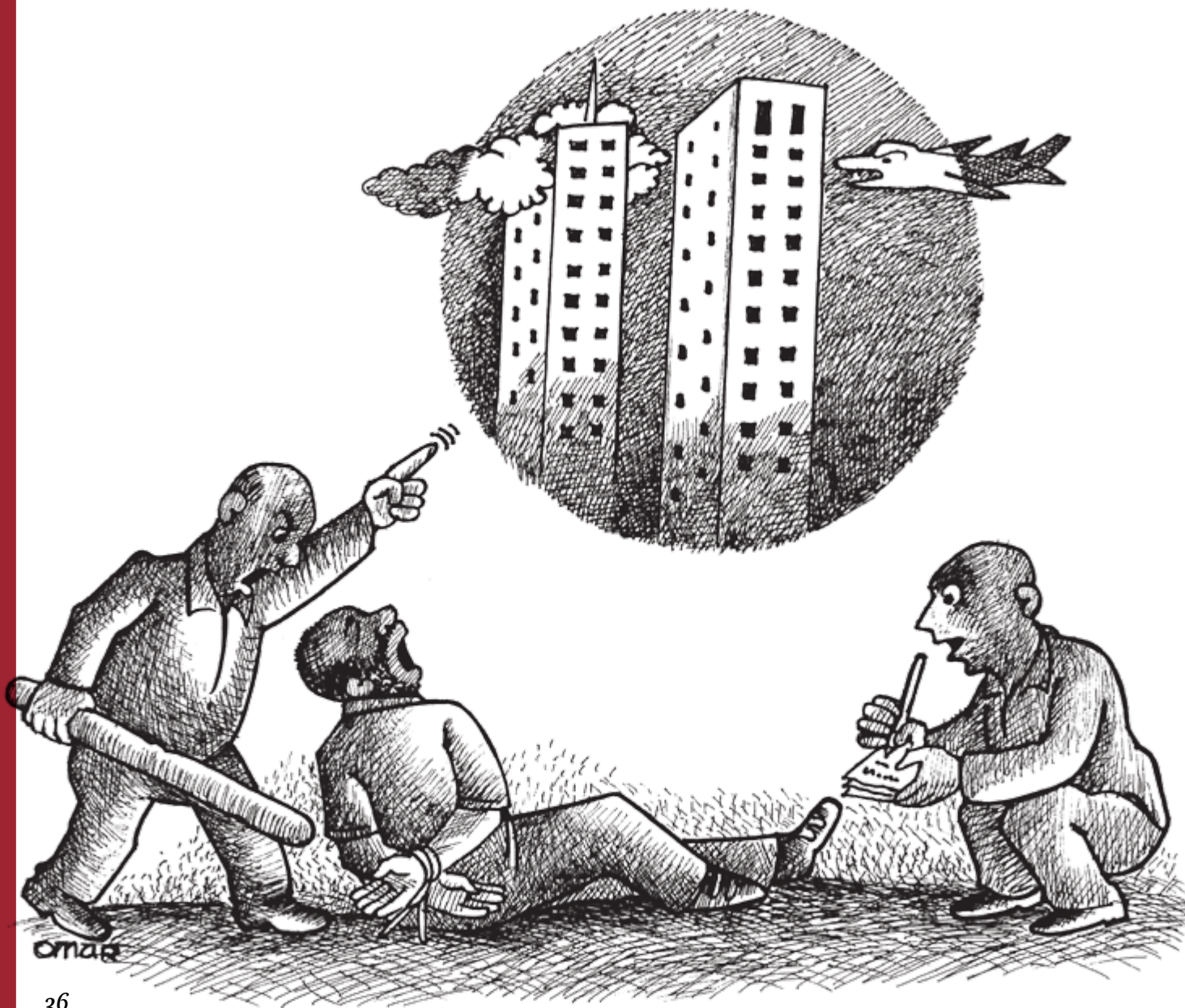
**There is no torture here; just read our laws. Torture isn't allowed here**

Prohibiting torture in national law is an important first step, but the next step – even more important – is to ensure that laws are fully implemented. Laws that sit on the shelf and are ignored are like window-dressing.

**She says she was raped in prison, but she was asking for it. She wanted it to happen**

The victim says she was raped and that she did not consent. Have you interviewed her? In any event, it is impossible for a woman to consent to sex while she is under the total control of a prison. It is an abuse of power for a guard to initiate sex in this kind of situation.

08 Typical responses States give when asked about torture (and our responses)



## **But we didn't torture, we just exerted moderate physical pressure**

'Moderate' is a vague term. Whether an act amounts to torture will not depend on whether the persons responsible for the violence call it torture. An act will be torture if it caused serious pain or suffering, was intentionally inflicted for a specific purpose, by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Acts which don't meet the threshold for torture but still constitute an act of physical or psychological harm are not allowed either – the only force that is ever allowed is force that is legal, necessary and proportionate. No force that is excessive can ever be justified. When a person is subdued in custody and not posing any type of threat, there is no justification for the use of any force.

## **The scars are fake; they are self-inflicted. Just a ruse to get refugee status**

True, scars will not always be a clear indication that torture has happened, but they are part of the body of evidence that must be assessed to come to a clear picture of the facts. It is not the responsibility of the victim to produce scars, nor is a scar an accurate barometer of torture; torture often does not produce scars. Investigators have the responsibility to carry out a full and effective investigation capable of arriving at the truth, including interviewing witnesses and consulting secondary sources. Physical evidence is only part of the picture.

## **But you know who these people are? Do you know what they did to innocent people? They don't deserve to be protected**

Everyone deserves protection; this is what the absolute prohibition against torture means. We cannot pick and choose who deserves to have rights; human rights belong to everyone.

**But we are facing an unprecedented threat to our security; we have to do everything we possibly can to protect the country**

Of course, States have an important responsibility to ensure that security and order are maintained. The difficulty of this task cannot be underestimated. But it does not follow that subjecting persons to torture will have any impact on improving security. And in any event, torture is illegal, morally offensive and detracts from the rule of law which undermines all of our security.

**It happened so long ago; we have no way to deal with this. It is too late**

It is never too late. The psychological scars of torture can last a lifetime; the victims cannot and will not forget. It is also important for the society to understand what happened and that it was wrong, so that it is not repeated. There are torture claims that have been successfully resolved after half a century. Kenyan Mau Mau veterans who were tortured by the colonial British army recently received a settlement award for the brutal torture they experienced.

**It was “one bad apple” and we’ve punished him; the rest of us are all really good people**

Torture rarely happens in isolation; it is like a disease that spreads. If evidence is presented of a pattern of torture in a particular location or amongst a particular police or military unit, then the pattern should be investigated and the investigation should be capable of arriving at the full truth of the scale of what happened and who precisely was involved. To punish one exemplary case is not enough, particularly where it masks a wider context of torture. There is an obligation to investigate and prosecute all torture cases. A failure to do so contributes to impunity and risks allowing the practise to continue.

**But you must understand, these people are heroes. They helped to overthrow the greatest evil. We can't go and prosecute them now**

No person or group is necessarily all good or all bad, and no one should be above the law. It is important to underscore this principle which is needed if the country is going to develop into a strong, law-abiding society; isn't this what we are all striving for? Privileging one group and placing them above the law will simply result in new tensions and biases, and perpetuate a sense of entitlement.

**Why do the victims want to dig up the past? Isn't it time for the country to move forward?**

Victims' demands for justice are not about politics or transition; they stem from what they experienced, from the need for acknowledgment of what they suffered and for their rights to be restored. Restoring this balance is necessary for victims, as all citizens, to participate in creating the future of the country. Justice is a precursor to this.

**It wasn't us who did it; it was country X, our intelligence partners**

If a State is complicit in torture that was perpetrated by another country, the complicit State bears responsibility for the torture alongside that other country. Whether a State is complicit will depend on what they did, what they knew or ought to have known, whether they assisted the other country or took some action which put the victims in the position where they were at risk of torture.







## 09 What is being done about torture?

**Nationally**, what is being done about torture tends to depend on whether a State acknowledges that torture happens, whether there is an independent and vibrant civil society capable of assisting survivors and an independent judiciary.

In many countries, governments (and the public at large) will be under the impression that torture does not happen. In those circumstances, when the media report a story relating to torture, the victims or their lawyers may not be believed, or may be blamed for bringing disrepute to the officials or the country. In countries where there is a lot of torture, progress tends to be slow. There may be certain laws that prohibit torture but sometimes there will not be a comprehensive legislative framework to deal with all aspects of torture and ill-treatment and there tends to be a disconnect between the law and the practice.

Often it is those countries that emerge from a repressive history who do the most to address a legacy of torture and other human rights abuses. Usually this is because there has been a change of regime, and a new government can look at torture cases with a bit of distance. Many truth commissions have considered torture allegations and former leaders have been prosecuted, often many years after the fact.

"British troops are being weakened in their fight against terrorists because they fear human rights lawyers will take them to court, the Defence Secretary has warned. Michael Fallon attacked 'ambulance-chasing law firms' that have brought thousands of cases against the Ministry of Defence over the conduct of British forces in Iraq and Afghanistan. He said soldiers were worried that their actions could land them in court defending compensation claims brought by enemy fighters they capture or relatives of those killed."

"Defence Secretary Michael Fallon: suspend the human rights act to protect our troops", Tim Ross, The Telegraph, 26 December 2015.

Kaing Guek Eav (Duch), the former Chairman of the Khmer Rouge S-21 prison in Phnom Penh, where hundreds of thousands of Cambodians were tortured and killed, was prosecuted and convicted by the Extraordinary Chambers in the Courts of Cambodia of a range of crimes including torture and inhumane treatment.

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Former Peruvian President Alberto Fujimori was convicted of a range of human rights crimes in April 2009, marking the first time a democratically elected president had been tried and found guilty of human rights abuses in his own country. Fujimori was already serving a six-year prison sentence for abuse of power.

**Internationally and regionally**, much has been done by intergovernmental bodies such as the United Nations, and by the Inter-American, European and African human rights systems to draw attention to the scourge of torture and to encourage States to do all in their power to prevent it from happening.

At the United Nations, the Committee against Torture is a special body of experts whose mandate is to encourage state compliance with the Convention against Torture. The Committee reviews State Party reports, provides general comments on the interpretation of the Convention against Torture and considers individual claims brought by victims. There is also a Special Rapporteur on Torture whose job it is to enter into dialogue with States to help eradicate torture and provide justice to victims.

Similar bodies exist in the main regional systems. Sometimes, these bodies have played a critical role to press States relating to practise which contravenes their obligations to prohibit torture. For instance, the Report of the Parliamentary Assembly of the Council of Europe on renditions and secret detentions in Europe as part of counter-terrorism measures revealed an intricate web of activity of certain European states and set in motion many of the later calls for their accountability.<sup>8</sup>

In Africa, a special Committee for the Prevention of Torture in Africa has been established, under the auspices of the African Commission on Human and Peoples' Rights and it works to support States' efforts to eradicate torture. There are also multilateral state initiatives to increase ratification and implementation of the Convention against Torture. Solidarity and collective action also exists amongst civil society groups, lawyers associations and others to support survivors and draw attention to the devastating effects of torture.

# IO Interviewing torture survivors: Tips for journalists

## Understanding the impact of torture

Interviewing torture survivors is important to ensure individuals' stories are told and the general public becomes increasingly aware of the importance of preventing and combating torture. This can be challenging because events such as torture are deeply personal and can evoke a range of emotions, including shame, fear, anger and pain. It may be immensely difficult for survivors to speak publicly about torture.

Anyone interacting with survivors should be prepared to deal with a range of emotions; showing sensitivity towards their feelings is of the utmost importance. Journalists should always empathise with survivors as they pursue a story – stories should not be rushed or pushed; survivors should not be told to 'get to the point'; or 'can we skip to the worst parts'. Despite this, a survivor of torture should never be treated as a subject of pity. Journalists should also be aware that during the course of their work they may meet an individual, for example, a refugee fleeing a conflict, and it may not be evident that the person is a torture survivor.

We encourage all journalists conducting interviews with torture survivors to refer to the guidance below to ensure effective and appropriately sensitive interactions.

<sup>8</sup>Parliamentary Assembly of the Council of Europe, "Alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states", Doc. 10957, 12 June 2006.



## Preparing for the interview



Learn as much as possible about the survivor and the specific details of their case and their country of origin. As much as is possible, it will also be useful to become familiar with the terms and acronyms relevant to their case.

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Consider if a female reporter should interview female torture survivors, particularly if the torture involves sexual abuse or there are other cultural sensitivities involved in discussing intimate matters. If it is not possible to make such arrangements, consider asking the survivor if they feel comfortable being interviewed by a person of the opposite sex. The issue is most relevant for male interviewers interviewing female survivors. Male survivors may sometimes prefer to be interviewed by females; it will depend on the context.

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Ask the victim beforehand in which language she/he would feel more comfortable conducting the interview and if he/she needs an interpreter.

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Ensure that the location is appropriate, allowing for privacy without interruption. Choose a space where you think the interviewee will feel comfortable.

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Make it clear who you are working for and why, what you expect from the interview and what you wish to report on. Provide information on the audience of the media outlet and if possible, the kind of coverage they may expect to see.



While it is not common for interviewees to approve copy that journalists write or recordings they wish to broadcast, some interviewees may not be willing to conduct an interview if they are not able to provide such approval. If you think this may be the case, make this clear before arranging the interview.

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Consider sharing the questions you wish to ask in advance so that the interviewee is prepared to discuss the subjects you wish to cover.

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Ask the interviewee if they prefer to be identified as a “torture survivor” or “torture victim”, as each definition has their own connotation and the decision is a personal one.

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Ask permission beforehand to the interviewee if you want to take audio recordings, photographs or a video. An image or voice can reveal the identity of a victim who has fled torture and this may put them and/or their family at risk of persecution. Similarly, ensure the survivor is happy to have their name published as this may also put them at risk. If so, confirm the name and age of the victim first as the interview may break down mid-way.

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Do not use graphic images of victims. It is unethical to display a dead or private parts of a victim of torture. Respect for human dignity is an internationally observed ethical standard for journalists.

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Give extra attention to your own safety in sensitive situations; tell your colleagues where you are going before attending an interview, and when you expect to return.



## During the interview



Ensure that the interviewee is ready to begin the interview and feels comfortable. Consider offering refreshments.

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Turn off mobile and other electronic devices to minimise disruption.

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If an interpreter is being used, it is still important to communicate directly with the survivor, even if this is just to maintain frequent eye contact.

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Asking open-ended questions will allow the survivor to tell their story on their own terms and not feel pressure to disclose information. It is important to avoid asking direct, closed questions that may upset the interviewee, and to respect their decision not to answer any questions they are not comfortable with. Consider asking the most difficult questions at a time when you think they are ready to answer them, such as towards the end of an interview.

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If the information the interviewee is providing is unclear, rephrase the question instead of asking it in the same way as this may appear confrontational.

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Consider offering a break if the interviewee appears to be affected by the discussion you are having. Offer refreshments and if the interviewee is upset, offer tissues.



While a torture survivor will appreciate your concern, try to maintain professionalism at all times. Try to be careful when expressing sympathy or understanding (“that must have been awful”) as this may appear patronising. Avoid expressing shock or horror when survivors are recounting details of their torture. Avoid trying to comfort them.



Confirm supporting details; ensure clear descriptions of places, names of all present at the event, their positions/roles, and recognisable uniforms or insignia.



Ask about the timing and sequence of events. What was said when? Try to cross-reference details and compare stories to ensure accuracy.

## After the interview and before publishing a story



Pay extra attention to security and data protection issues. For example, ensure you are not disclosing information that you should not disclose, e.g. the HIV status of a torture survivor who was subjected to sexual violence.



Be particularly aware of specific sensitivities regarding the rights of children. For example, what special approaches and techniques are unique to journalism relevant to the rights of children? How should you construct interviews with children? Please don't expose minors.

## Other sources of information



Credibility of sources is very important for a story to be worth its salt. Medical reports or court documents may give a journalist covering a torture story the necessary back up and proper explanation in an injury or death case caused by torture. These documents may be especially useful as torture survivors may have difficulties recalling the specific details of their ordeal.

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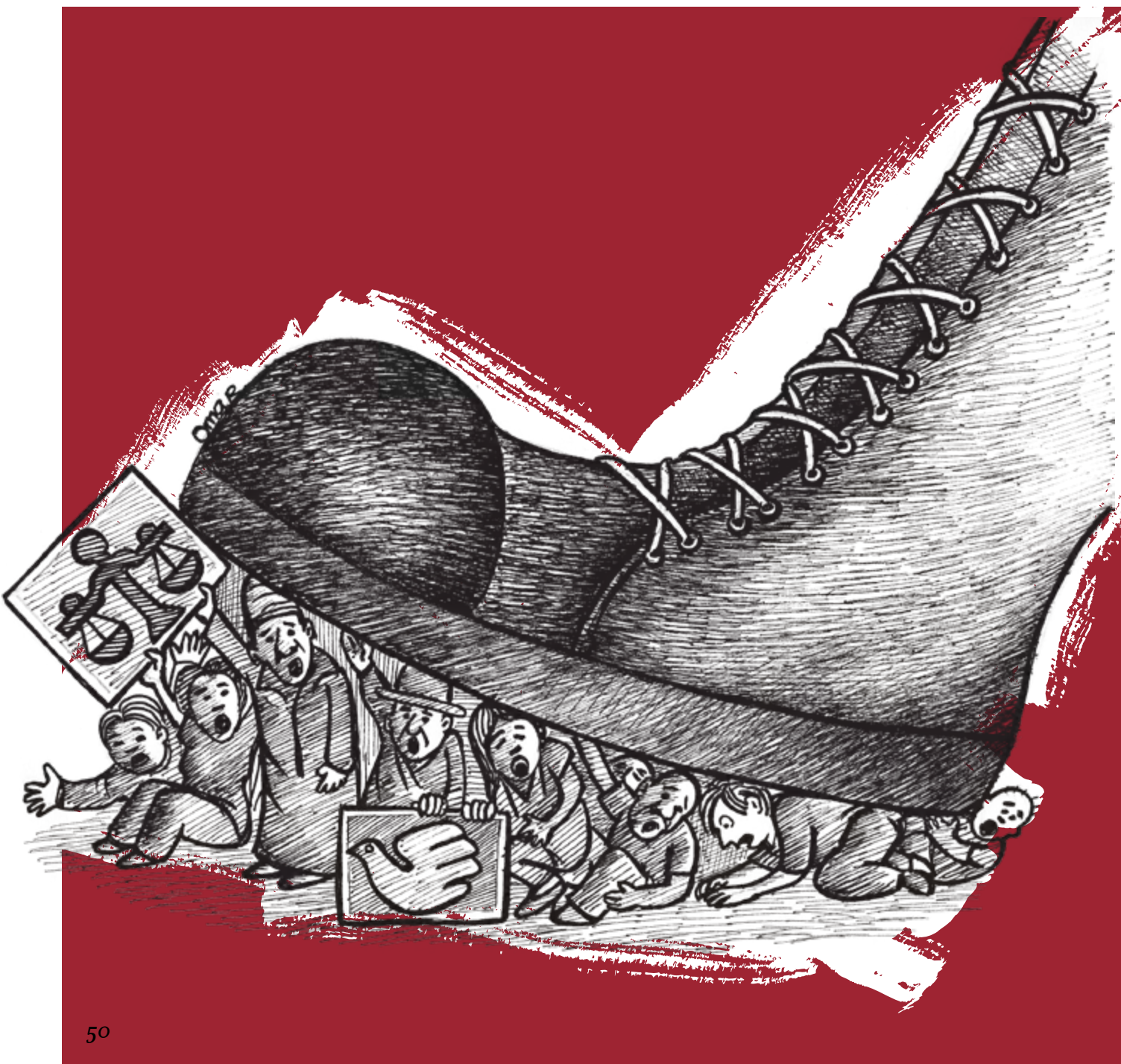


Sometimes it will be challenging for journalists to interpret some of the medical and legal jargon in a case. In those cases, it is advisable to talk to experts and break down the reports for easier understanding. It is important to get the meaning of the terminologies accurately, as if wrong medical or legal terms are used in a story, it will mislead the readers and listeners.

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In addition to seeking expert opinions, it is also advisable to quote medical or court documents (so long as personal details are protected and full consent has been obtained). Direct quotes from reports give authenticity to the report and a clear understanding of the story being told about a torture case. This will help to correlate the circumstances of death or injury to pathological, clinical and toxicological findings.



## II *What are the risks for journalists who report on torture?*

By carrying out independent fact-finding and by reporting to the public on their findings, journalists and other media workers help the public to access information about an array of subjects and to form independent and often critical views about those subjects.

This increases debate within society and can challenge official versions of events put forward by governments or others exercising power or authority. This ability to foster pluralistic views is important for fostering citizens' access to information and underpins democracy. It also enables journalists to broaden and influence views and opinions.

But torture is a particularly sensitive subject, not only for the survivors but also for their families and communities. It is also sensitive for the perpetrators, their affiliates and all those with some responsibility for the violence including the State. Many would prefer if torture was not known or discussed; it takes place in secret for a reason. Journalists face a number of risks because of these sensitivities. Risks of violence can deter journalists from their work, or encourage self-censorship on sensitive matters impeding society's access to information. All journalists should be aware of the potential risks they face so that they can take adequate precautions and stay safe. There are several organisations that provide support and assistance to journalists at risk, such as the Committee to Protect Journalists and the Media Legal Defence Initiative.

Committee to Protect Journalists:

[www.cpj.org](http://www.cpj.org)

See list of resources:

[www.cpj.org/campaigns/assistance/resource-center.php](http://www.cpj.org/campaigns/assistance/resource-center.php)

and resources on security issues

[www.cpj.org/reports/2012/04/journalist-security-guide.php](http://www.cpj.org/reports/2012/04/journalist-security-guide.php)

Media Legal Defence Initiative, provides legal help for journalists and bloggers around the world:

[www.mediadefence.org](http://www.mediadefence.org)

## II What are the risks for journalists who report on torture?

**Risks to victims:** Reporting on torture can put the victim, his or her family, the wider community, lawyers and supporters at risk. This does not mean that reporting should be avoided – to the contrary, journalists should take all steps to ensure that anyone who they interview gives informed consent, and journalists should take all possible care to avoid risks from materialising for their interview subjects and others affected by the interview. This might include changing names, dates, places or other identifying details and refraining from publishing photographs of the victim unless there is express consent.

**Libel or defamation:** A journalist who reports that a particular named person committed torture, or a particular company supplied the torture equipment, may be subject to a libel suit if the information is not true, unproven or judged to be defamatory. The law on libel will differ depending on the country. Journalists should know the applicable laws in the countries where they work and where their articles are published or disseminated.

**Banning reporting:** In some cases, in order to avoid sensitive stories from being published, governments may respond by banning independent newspapers, criminalising the publishing or disseminating of certain information and prosecuting editors and journalists. Journalists should understand the limits of the law in the countries where they work, but should also realise that in particularly repressive countries, these laws may be vague or subject to change at very short notice. It is important for journalists to join networks both domestically and internationally in order that they can benefit from advice and assistance if and when problems arise.



**Harassment, threats and violence:** Attacks may also include harassment, intimidation and threats of violence to journalists and their families; expulsion; unlawful or arbitrary arrest and detention; abduction; torture; sexual violence and even murder. Journalists should be aware that a security situation can change very rapidly and whilst they may have felt able to write in relative safety some months back, the situation may have changed quite rapidly.

As above, it is important for journalists to stay connected with each other both inside and outside of the country, so that they can alert others if and when problems arise or obtain assistance at short notice to deal with urgent problems. Journalists should develop and implement plans to mitigate the risks they face, such as undertaking a continuous risk assessment while in the process of documenting and following up on a case.

The nature of journalism is that it exposes the journalists to traumatising stories and circumstances. Journalists then suffer from secondary or tertiary trauma and will need to develop coping mechanisms which may include seeking psychological support.

## I2 *About the authors*

This handbook has been jointly written by REDRESS (United Kingdom), Advocacy Forum (AF) in Nepal, the Coordinadora Nacional de Derechos Humanos (CNDDHH) in Perú, the Independent Medico-Legal Unit based in Kenya and Lawyers for Justice in Libya (LFJL).

**Advocacy Forum-Nepal (AF)** is a leading non-profit, non-governmental organization working to promote the rule of law and uphold international human rights standards in Nepal. Since its establishment in 2001, AF has been at the forefront of human rights advocacy and actively confronting the decades-old culture of impunity in Nepal. It has done so by systematically documenting human rights abuses, monitoring detention centres and formally building court cases. It has also been involved in capacity development of the victims themselves and high level policy advocacy aimed to create effective institutions and legal and policy frameworks necessary for the fair and effective delivery of justice.

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**The Coordinadora Nacional de Derechos Humanos de Peru (CNDDHH)** has been a primary institution of reference in Latin America since its establishment in 1985. It has Special Consultative Status before the Social and Economic Council of the United Nations (UN) and is accredited to participate in the activities of the Organization of American States (OAS). It is a network of 79 civil society organisations working towards the defence, promotion and education of human rights in Perú. Its mission is the promotion of a culture of comprehensive human rights and the consolidation of democratic institutions, with one of its main objectives being to end the practise of torture in Perú and to empower survivors and their families and communities. They have experience in litigation of torture cases at the domestic and supranational levels.

**The Independent Medico-Legal Unit (IMLU)** is a Kenyan governance, health and human rights non-profit organization, whose vision is A Just World Free from Torture. Their work is underpinned by a holistic approach involving litigation, medical and psychosocial rehabilitation of survivors of torture, monitoring government adherence to its human rights obligations and advocacy for policy, legal and institutional reforms. Over the last two decades they have assisted over 4,000 victims of torture, cruel, degrading and inhuman treatment through the support of their national networks of professionals: doctors, trauma counsellors, lawyers, human rights monitors and journalists.

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**Lawyers for Justice in Libya (LFJL)** is an independent non-governmental organisation and charity, incorporated for the public benefit in order to defend and promote human rights in Libya. Through its work in the fields of national and international advocacy, human rights education, legal reform, strategic litigation, and transitional justice, LFJL seeks to become a catalyst, during the transitional period and beyond, for the establishment of a state based on the rule of law and democracy.

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**REDRESS** champions survivors' fight for justice and seeks to expose the scourge of torture. REDRESS helps torture survivors from around the world to obtain justice and reparation by providing free legal assistance to individuals and communities, advocacy and capacity building. It works with survivors to help restore their dignity and to make torturers accountable. REDRESS prioritises the interests and perspectives of survivors in all aspects of its work. The highest priority in decisions and interventions is given to promoting survivors' well-being and the avoidance of further traumatising. It has successfully litigated on behalf of survivors at the domestic and international levels.



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