

A Summary of the Convention against Torture

● Article 1 – The definition of torture

For the purposes of the Convention, torture is defined 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.”

● Article 2 – Prevention of torture

A State Party has an obligation to take effective measures to prevent acts of torture in any territory under its jurisdiction, including legislative, administrative, judicial or other measures. Article 2(2) states that “no exceptional circumstances whatsoever” may be invoked in justification of torture.

● Article 3 – Non-refoulement

A State Party cannot expel, return or extradite a person to another State where there are “substantial grounds” for believing that the person would be at risk of being subjected to torture.

● Article 4 – The criminalisation of torture

A State Party is required to ensure that all acts of torture are offences under their criminal law, including attempts to commit torture and acts by any person which constitutes complicity or participation in torture. The Committee against Torture requires that States use, as a minimum, the definition of torture included in Article 1 of the Convention.

● Article 5 – Universal jurisdiction over torture

A State Party must establish its jurisdiction over any persons found in its territory who are alleged to have committed torture, regardless of where the alleged act was committed or the nationality or residence of the alleged perpetrator.

● Articles 6-9 – The exercise of universal jurisdiction

Under Article 6(1) a State Party is required to secure the custody of an alleged perpetrator when they are “satisfied, after an examination of information available to them, that the circumstances so warrant.” Under article 6(2) a State Party is obliged to immediately initiate a preliminary investigation into the facts.

Article 7 requires a State Party to extradite a suspected torturer, or if that is not possible, to prosecute the individual.

Article 8 allows the possibility of extraditing a suspected torturer when a request is made. Where there is no extradition treaty, the Convention may be used as a legal basis for extradition.

Article 9 obliges States Parties to co-operate with each other and supply all evidence at their disposal necessary for criminal proceedings against persons accused of torture.

- **Article 10 – Training officials**

A State Party is required to ensure that all law enforcement personnel, medical personnel, public officials and other persons who may be involved in custody, interrogation or treatment of any person are trained regarding the prohibition against torture, and that the rules relating to their duties incorporate the prohibition.

- **Article 11 – Review of detention procedures**

A State Party must keep under systematic review interrogation rules, instructions, methods and practice as well as arrangements for the custody and treatment of persons under any form of arrest, detention or imprisonment.

- **Article 12 – Prompt and impartial investigation**

A State Party must ensure a prompt and impartial investigation where there is a reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

- **Article 13 – Right to complain**

A State Party must ensure that victims of torture have a right to complain to competent authorities, and to have their case promptly and impartially examined. Steps must be taken to protect the complainant and any witnesses against all ill-treatment or intimidation as a result of the complaint.

- **Article 14 – Right to redress**

A State Party must ensure that victims of torture obtain redress and has an enforceable right to compensation, including the right to as full rehabilitation as possible.

- **Article 15 – The exclusionary rule**

A State Party must ensure that any statement made as a result of torture shall not be invoked as evidence in any proceedings, except in proceedings against an alleged torturer.

- **Article 16 – Ill-treatment**

Under article 16, each State Party is obliged to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1.

- **Articles 17-33**

Articles 17-24 deal mainly with the mandate of the Committee against Torture, including article 22 which allows for the Committee to receive and consider individual communications if a declaration by the State Party is made.

Articles 25-33 relate to technical matters, including the signature or ratification of the Convention, procedure for amendments, or reservations.

The full text of the Convention can be found here:

<https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>