

AMNESTY INTERNATIONAL

Public Statement

AI Index: IOR 51/004/2007 (Public)
News Service No: 118
25 June 2007

The UN Convention Against Torture at 20 -- remarkable achievements, formidable challenges

Amnesty International today called on all states to eradicate the scourge of torture and all other forms of cruel, inhuman or degrading treatment or punishment. The call came as the world prepared to mark the 20th anniversary, on 26 June 2007, of the entry into force of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1984 for signature and ratification after long campaigning by Amnesty International and other organizations.

On the eve of that anniversary, a substantial majority of the world's states -- 144 in all regions -- will have ratified the Convention and a further eight states will have signed it. Its adoption has contributed to regional treaties prohibiting torture and torture has been included as a war crime and a crime against humanity in the Rome Statute of the International Criminal Court. The Committee against Torture regularly reviews reports of states parties on the implementation of the Convention, making findings and recommendations to states on how to prevent and punish torture and provide reparations to victims. The Committee also examines individual complaints by victims alleging torture. The UN has appointed a Special Rapporteur on torture to address reports of torture and recommend actions by all states, whether they are parties to the Convention or not.

The Convention has a number of important features. It defines torture (Article 1) as both a human rights violation and a crime, involving the intentional infliction of severe pain or suffering for purposes such as punishment, intimidation and the obtaining of information, when done by officials, at their instigation or with their consent or acquiescence.

It requires each state party to "take effective legislative, administrative, judicial or other measures to prevent torture," makes clear that "[n]o exceptional circumstances whatsoever" justify torture and rules out any defence of superior orders (Article 2). Article 3 prohibits the transfer (*refoulement*) of anyone to a place where he or she risks torture and Article 4 requires that all acts of torture be defined as a crime. States must investigate when anyone suspected of torture is found on their territory (Article 6), must provide for universal jurisdiction over such persons (Article 5 (2)) and, if such suspects are not extradited, submit the case to their prosecutors (Article 7 (1)). They must investigate promptly and impartially whenever there are reasonable grounds to believe that an act of torture has occurred in territory subject to their jurisdiction or such an act is alleged (Articles 12 and 13). States must train all law enforcement personnel not to torture (Article 10), provide reparations to victims (Article 14) and exclude any statement made as the result of torture in any proceeding, except to prove that torture occurred (Article 15). The Convention also requires states to take measures against other cruel, inhuman or degrading treatment or punishment (Article 16).

Last year saw a further major development towards greater protection against torture and other ill-treatment. On 22 June 2006, the Optional Protocol to the Convention, which had been adopted on 18 December 2002, entered into force. To date, 56 States have signed the Protocol, and 34 have ratified or acceded to it. The Protocol mandates independent international experts to conduct regular visits to places of detention within states parties, and requires states parties to set up national mechanism to conduct visits to places of detention and to cooperate with the international experts.

However the Convention, and the struggle to rid the world of torture and other ill-treatment in general, continue to face serious challenges.

These challenges include, first and foremost, the continued infliction, in many countries, of torture and other ill-treatment on detainees, prisoners and others. In police stations, prisons, military detention facilities, interrogation centres and other locations all around the world officials abuse the absolute power they have over defenceless

persons deprived of their liberty and inflict pain on them, or else they allow others to inflict such pain with impunity.

Amnesty International's annual reports depressingly show, year after year, that the majority of states in the world still torture or ill-treat persons under their control. Of the 153 states and territories surveyed in the organization's 2007 annual report, at least 102 had resorted to torture or other ill-treatment.

Another challenge is the attempts by some to challenge the absolute prohibition on torture and other ill-treatment, for instance by arguing that they are essential weapons in the "war on terror."

Facing an outcry against such a call for states to adopt criminal conduct as official policy, certain governments have resorted, instead, to playing word-games, making definitional and interpretational manoeuvres including by:

claiming that certain methods of interrogation or forms of punishment do not constitute torture;
claiming that the prohibition on cruel, inhuman or degrading treatment or punishment is not quite as absolute as that on torture, and therefore states may ill-treat prisoners in certain circumstances;
"subcontracting" torture to other states and claiming that responsibility rests solely with them;
circumventing non-*refoulement* obligations through devices such as diplomatic assurances.

Why is the eradication of torture and ill-treatment proving so elusive? Reasons include lack of political will and failure to enact effective implementing legislation, to provide training, to investigate or prosecute, extradite and to establish effective procedures for victims to obtain reparations no matter who committed them and no matter where the torture occurred.

What must be done? States must take their international obligations seriously. Those which have not ratified the Convention must do so. Those which have attached reservations weakening the Convention's protections must withdraw them. Those which have not allowed individual complaints to be considered by the Committee against Torture must now allow such complaints. Those which have not ratified the Optional Protocol must do so. States must also contribute generously to the United Nations Voluntary Fund for Victims of Torture.

States parties should also nominate and vote for independent candidates of the highest calibre in elections to the Committee against Torture which will take place on 8 October 2007. Candidates should possess a broad experience relevant to the Convention, an in-depth understanding of issues relevant to the deprivation of liberty and a long-standing commitment to human rights. Candidates should not hold a position in the executive or legislative branch of government. In order to improve the selection of candidates, states should put in place a process at the national level which is consultative, transparent and well-publicized. Amnesty International urges states parties to ensure that considerations of quality prevail over those of politics in the forthcoming elections.

At the national level, states must amend flawed implementing legislation and enact effective implementing legislation where none exists, provide training, establish special units of police and prosecutors to investigate reports of torture and to prosecute suspects, including on the basis of universal jurisdiction, or extradite them to states able to do so in fair trials without the death penalty or the risk of torture or ill-treatment. Indeed, they must never transfer *anyone* to any place where they would be at risk of torture or ill-treatment. They must establish independent, professional and adequately resourced national visiting mechanisms in accordance with the provisions of the Optional Protocol.

A positive example of action at the national level is the appeal launched today by Redress in the Parliament in London to enact the Torture (Damages) Bill, introduced in the House of Lords on 5th March 2007 [HL Bill 49]. This bill, strongly supported by Amnesty International, would provide effective procedures for fulfilling the United Kingdom's obligations under Article 14 of the Convention against Torture by permitting any victim of torture to obtain reparation in civil proceedings even when committed abroad.

Torturers must not be allowed to get away with their crimes -- be they perpetrators, their civilian superiors or military commanders or the state as a whole. Victims must not be left to suffer -- their torture must be stopped, their torturers punished, and their right to reparation ensured.

Public Document

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

For latest human rights news view <http://news.amnesty.org>
