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To: Health professionals
From: Medical office / Asia program
Date: 19 December 2000

MEDICAL LETTER WRITING ACTION

**Philippines
The Rolando Abadilla murder enquiry:
An urgent need for effective investigation of torture**

Key words torture/ill-treatment / torture techniques / medical confirmation / investigation of abuses / impunity

Summary

In June 1996 a number of suspects were arrested in Quezon City (Metro Manila) in connection with the highly publicized murder of Rolando Abadilla, a former police intelligence officer. At least seven of the suspects alleged that they were held incommunicado in police custody and denied access to family members, medical care and lawyers. Whilst held incommunicado they were subjected to torture, including electro-shocks and suffocation, to coerce confessions. In 1999 after a trial lasting nearly three years, five of the suspects were found guilty of murder and sentenced to death. Amnesty International is gravely concerned by the alleged torture and ill-treatment in this case, which may have violated the rights of the accused to a fair trial.

In October 2000, Amnesty International launched a year-long campaign aimed towards the eradication of torture around the world. The campaign is driven by the knowledge that torture victims include criminal suspects as well as political prisoners, the disadvantaged as well as the dissident, and people targeted because of their identity as well as their beliefs. The campaign aims to achieve progress by focussing on three related areas - preventing torture, confronting discrimination and overcoming impunity.

Recommended actions

Please write letters to the first three addresses below, (1) Secretary of Justice, (2) Chief State Prosecutor and (3) Director General, Philippine National Police:

- ⌞ introducing yourself as a member of the health professional network of Amnesty International;
- ⌞ expressing concern at the receipt of credible reports by Amnesty International that Joel de Jesus, Cesar Fortuna, Rameses de Jesus, Lenido Lumanog and Augusto Santos, convicted in 1999 of the murder of Rolando Abadilla, were tortured during interrogation while held incommunicado by the police at unknown locations;
- ⌞ welcoming the prompt attention of the Commission on Human Rights to the complaints lodged by relatives of the Abadilla suspects in June 1996;
- ⌞ expressing concern, however, that the medical investigations in the Abadilla case did not meet acceptable standards for the forensic evaluation of torture allegations, including those standards set out in the *Istanbul Protocol: Manual on the Effective Investigation and*

Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and that further evaluation is called for;

- ↯ calling on the authorities to provide the Philippine Commission on Human Rights with adequate resources to enable detailed examinations to be carried out by trained medical personnel to establish whether marks of observable physical and psychological effects are consistent with the torture that has been described;
- ↯ urging the authorities to ensure that an impartial, independent and thorough investigation into the men's complaints is carried out as soon as possible and that the results are made public; urging that all complainants, witnesses and their relatives are fully protected from intimidation and reprisals;
- ↯ enclosing Appendix I, the *Principles for the Effective Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*.

Please write letters to the other three addresses, (4) the Philippine Commission on Human Rights, (5) the Department of Health, and (6) the Philippine Medical Association:

- ↯ introducing yourself as a member of the health professional network of Amnesty International;
- ↯ expressing concern at the receipt of credible reports by Amnesty International that Joel de Jesus, Cesar Fortuna, Rameses de Jesus, Lenido Lumanog and Augusto Santos, convicted in 1999 of the murder of Rolando Abadilla, were tortured during interrogation while held incommunicado by the police at unknown locations;
- ↯ welcoming the prompt attention of the Commission on Human Rights to the complaints lodged by relatives of the Abadilla suspects in June 1996;
- ↯ expressing concern, however, that the medical investigations in the Abadilla case did not meet acceptable standards for the forensic evaluation of torture allegations, including those standards set out in the *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and that further investigation is called for;
- ↯ calling for the recipient to ensure that the medical examination of any person alleging torture includes the following, as described in the Istanbul Protocol's *Principles for the Effective Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (see Appendix I):
 - a history of the alleged torture, including methods, the times when it is alleged to have occurred, and all complaints of physical and psychological symptoms;
 - a physical and a psychological examination
 - an opinion i.e. an interpretation as to the probable relationship of the physical and psychological findings to possible torture or ill-treatment;
- ↯ enclosing Appendix I, the *Principles for the Effective Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*.

If you receive no reply from the government or other recipients within two months of dispatch of your letter, please send a follow up letter seeking a response. Please check with the medical team if you are sending appeals after 31 March 2000, and send copies of any replies you do receive to the International Secretariat (att: medical team).

Addresses

**(1) Secretary of Justice
Artemio Tuquero**
Department of Justice

Padre Faura, Ermita, Manila
Philippines
Fax: +63 2 521 1614
Email: doj@erap.com

**(2) Chief State Prosecutor
Jovencito Zuno**

Department of Justice
Padre Faura
Ermita
1000 Manila, Philippines

**(3) Director General, Philippine National Police
Panfilo Lacson**

National Headquarters
Camp Crame
EDSA, cor. Santolan Road
Quezon City, Philippines
Fax: +63 2 724 8763

NB Please send a copy of this letter to the same address for the attention of the Forensic Division.

**(4) Chairperson, Commission on Human Rights
Hon. Aurora Navarrete-Reciña**

SAAC Building
University of the Philippines Campus
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Diliman, 1100 Quezon City
Philippines
Fax: +63 2 928 7240 / 929 0102/ 631 6449

*NB Please send a copy of this letter to the same address for the attention of Dr. Renante Basas,
Chief of Forensic Division.*

(5) Secretary of Health

Department of Health
San Lazaro Compound
Rizal Ave, Santa Cruz
Metro Manila
Philippines

**(6) President Medical Association Philippines
Dr Modesto O. Llamas**

P.O. Box 4039
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Please also send a copy of your letters to diplomatic representatives of the Philippines in your country.

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MEDICAL CONCERN

Philippines The Rolando Abadilla murder enquiry: An urgent need for effective investigation of torture

Introduction

In June 1996 a number of suspects were arrested in Quezon City in connection with the highly publicized murder of Rolando Abadilla, a former police intelligence officer. At least seven of the suspects alleged that they were held incommunicado in police custody and denied access to family members, medical care and lawyers. Whilst held incommunicado they claimed they were subjected to torture, including electro-shocks and suffocation, to coerce confessions. Attempts by the suspects to exercise their right to a thorough, prompt and impartial investigation of their claims have proved unsuccessful. In 1999 after a trial lasting nearly three years, five of the suspects were found guilty of murder and sentenced to death and two were acquitted. Amnesty International is gravely concerned by the alleged torture and ill-treatment in this case, which may have violated the rights of the accused to a fair trial.

In October 2000, Amnesty International launched a year-long campaign aimed towards the eradication of torture around the world. The campaign is driven by the knowledge that torture victims include criminal suspects as well as political prisoners, the disadvantaged as well as the dissident, and people targeted because of their identity as well as their beliefs. The campaign aims to achieve progress by focussing on three related areas - preventing torture, confronting discrimination and overcoming impunity.

Allegations of torture

Amnesty International held interviews with the suspects who related that they were subjected to torture while held incommunicado by the police at unknown locations. The suspects - Joel de Jesus, Cesar Fortuna, Rameses de Jesus, Lenido Lumanog and Augusto Santos - gave consistent reports to Amnesty International, the Philippine Commission on Human Rights (PCHR) and their lawyers about similar patterns of torture they were subjected to.

Joel de Jesus

Joel de Jesus claimed that when arrested on 19 June 1996 he was blindfolded with packaging tape and beaten. Later at an unknown location he says that he was questioned about the Abadilla killing, beaten, kicked and slammed against a wall. According to affidavits sworn on 3 July and 12 September 1996 and to the account given to Amnesty International, a plastic bag was placed over his head and held tightly at the back of the neck until he could scarcely breathe. Reportedly, while struggling for breath he was also hit in the stomach with a rifle butt, and at one point four men held him down while another sat down heavily on his stomach. During cross-examination in court, Joel de Jesus stated that he had been repeatedly hit during interrogation, that the blows had been painful, and that visible marks had not been left because those responsible had wrapped their fists with wet cloths.

Joel de Jesus recounted that, fearing he would soon be killed, he admitted his involvement in the Abadilla killing. In his affidavit of 12 September 1996, Joel de Jesus stated that on 20 June 1996, threatened and physically broken, he signed a seven-page "confession".

Cesar Fortuna

On 19 June 1996 Cesar Fortuna was asked to accompany armed police in civilian clothing for identification purposes, but was then handcuffed, blindfolded with packaging tape and brought to what he believed to be a PARAC (Police Assistance and Reaction Against Crime) office.

In affidavits and during interviews with Amnesty International representatives he described how a plastic bag was placed over his head and clasped at the neck till he nearly suffocated. He said, "*I struggled and fell to the floor and several men sat on me and pushed me down as another*

held the plastic bag over my head...this was repeated about three times...I struggled for breath and I thought that this would continue until I died so in the end I agreed to do what they wanted”.

Cesar Fortuna also described to Amnesty International representatives how he was laid down blindfolded, shirtless and face up, on a bench covered with an iron roofing sheet. Ice-cold water was poured over his body, ice placed on his genitals and a wet towel placed over his face and mouth. With an electric wire tied round his toe to act as an ‘earth’, another live electric wire was then touched against different parts of his body, including his face. When he convulsed he had great difficulty breathing through the wet towel.

According to his account given to Amnesty International, his hands and feet were tightly cuffed, and as he convulsed and struggled the metal cuffs cut into his wrist and ankles. At intervals of around 20 minutes as the water evaporated from his body, he was doused again with cold water. In an affidavit sworn on 18 September 1996, Cesar Fortuna also stated that he had been forced to eat faeces and to drink urine during his detention.

On 25 June he was given a medical examination by a police doctor who noted wounds and marks, especially on his wrists and ankles. Police later claimed these were caused as Cesar Fortuna tried to twist his hands and feet out of the cuffs to escape, and the police team commander stated that other physical marks on some of the suspects were caused because a “reasonable degree of force” had been necessary when the suspects violently resisted arrest.

On 26 June 1996, after being transferred to the Camp Crame Custodial Centre, Cesar Fortuna was interviewed by PCHR lawyers and gave a sworn statement that he had been tortured and coerced. The PCHR doctor and other observers noted the deep cuts on his wrists and blue-ish marks on his chest.

Rameses de Jesus

A large group of unidentified men seized Rameses de Jesus and dragged him into a van on 20 June 1996. He recounted to Amnesty International that he was blindfolded and struck with fists and gun butts on the back of the head, and, after being driven for about twenty minutes was taken into an unidentified building.

In his affidavit of 26 June 1996 and in more detail in his account to Amnesty International representatives, Rameses de Jesus claimed that in addition to being punched and struck with pistols, he was placed down on a bench, with his head hanging over the edge, and subjected to electro-shocks and suffocation with a plastic bag and a wet cloth. He told Amnesty International that at times he could bite a hole through the plastic bag placed over his head in order to breath a little, but that a wet cloth was placed over his face and water poured over it at intervals. He described how a wire was rolled around his toe and he was electro-shocked with another wire attached to a plug in the wall. He said that as the wire was touched against various parts of his body, including his genitals and ears, he screamed and convulsed. He added that pieces of wood were used to hit his thighs and the back of his head.

Although he reportedly confessed verbally to police, Rameses de Jesus told Amnesty International that he refused to sign a confession.

Lenido Lumanog

Lenido Lumanog said he was approached by unidentified armed men who forced him into a van on 20 June 1996. He stated he was blindfolded with packaging tape, handcuffed at the back, and struck with blows to the ribs and hard slaps to his head. He thought that he had been kidnapped by a criminal gang.

He described in his sworn statement of 26 June 1996 and in more detail in his account to Amnesty International representatives, how he was made to lie down on a bench and a towel was placed over his nose and mouth and water poured over it. He recounted how plastic bags were used to suffocate him, his shirt was taken off and ice put on his genitals and that a wire was wrapped round his toe and he was subjected to electro-shocks. He stated how the live wire was ‘stroked’ against his body, including his arms, neck and torso, for about three seconds each time. Periodically a pitcher of cold water would suddenly be thrown over him. He also claimed that he was hit with fists and kicked on his back, and that at one point, still blindfolded, he

heard a gun being cocked near his head. He claimed in his sworn statement that this caused him to jump up in fear, and that as he was forced back down to the floor, he hit his forehead hard causing a wound. He stated that he could hear Rameses de Jesus crying and moaning as he was interrogated in another part of the building.

Augusto Santos

Augusto Santos was arrested at his house on the evening of 26 June 1996. In a statement to lawyers in Camp Crane on 3 July 1996 and during interviews with Amnesty International representatives, Augusto Santos claimed that he was blindfolded, beaten and threatened with death to secure a confession that he had been paid by Joel de Jesus to participate in the killing of Abadilla.

In 1999, three years after their arrests, Joel de Jesus, Cesar Fortuna, Rameses de Jesus, Lenido Lumanog and Augusto Santos were sentenced to death. Their death sentences have yet to be reviewed by the Supreme Court.

Failure of complaints procedures

Attempts by the five men to use existing complaints procedures to obtain a prompt, thorough examination of their torture claims have failed. Following their interrogation, their families complained to the Philippine Commission on Human Rights (PCHR) that they had been tortured. The PCHR sent a doctor and lawyers to examine them, but Amnesty International is concerned that PCHR's medical investigations did not meet acceptable standards for the forensic evaluation of torture allegations.

In 1996, two of the detainees -- Joel de Jesus and Cesar Fortuna -- also filed complaints with the Department of Justice (DOJ) seeking prosecutions against named police officers on charges of grave threats, coercion, illegal arrest and arbitrary detention. By late 2000, more than four years after the complaints were lodged, the DOJ had still not completed its investigation or made the results public, in contravention of its obligations under international law, including the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture. Several relatives of the detainees were also reported to have received death threats after lodging their complaints in 1996.

The role of doctors of the Philippine Commission on Human Rights (PCHR)

The Philippine Commission on Human Rights (PCHR) was founded in 1987 as a constitutional body, independent of other state legal institutions, to protect and promote respect for human rights in the Philippines. One of its primary roles is to investigate complaints of human rights violations. However, the Commission can only recommend prosecution; it does not have prosecutory powers of itself.

On receiving complaints from the families of the detained Abadilla suspects on 24 June 1996, PCHR investigative officers demanded and gained access to the Camp Crane Custodial Centre on 25 and 26 June 1996. A physical examination of the suspects was carried out by a PCHR doctor late on 25 June 1996, and interviews were conducted by PCHR lawyers the next day. A preliminary PCHR report compiled by the investigators found a *prima facie* case of human rights violation, involving warrant less arrests, denial of rights of access by lawyers and family members, and the "*probability of torture*".

However, after taking into account counter-affidavits submitted by the police and others, and after assessing that medical reports of external physical injuries on four of the suspects were 'inconclusive' of torture, the PCHR's final resolution to the Department of Justice chose not to recommend that charges of "*serious physical injuries*" (torture) be filed against the suspected perpetrators. Instead it recommended charges of arbitrary arrest. While noting marks and external injuries on a number of the suspects the PCHR felt unable to take a position on whether they were a result of torture, or were self-inflicted. Media reports of the PCHR's final resolution suggested that because of the contradictory affidavits and 'inconclusive' medical reports, the PCHR felt it preferable for a preliminary investigation by the Department of Justice, or a full cross-examination in open court,

to resolve the issue.¹

The organization notes that a PCHR doctor was quoted as saying that the possibility of torture in the Abadilla case was present even if no marks were recorded as, “*there are torture means like the ‘dry submarine’ method which involves suffocation of the victim through a plastic bag placed on his head, which leaves no after-signs*”.²

Amnesty International’s concerns in this case are heightened by the fact that the complainants were kept incommunicado and without access to immediate, independent medical attention.

The medical examinations conducted by PCHR medical staff on the suspects recorded that there were signs - abrasions, contusions, incised and lacerated wounds - consistent with physical trauma. However, the medical certificates, while noting the injuries, fail to address the issue of the likely cause of the traumatic injuries. While trauma can be inflicted accidentally, by fellow prisoners or even self-inflicted, the injuries needed to be evaluated in the light of prisoners’ testimony that they had been tortured. In the affidavits recorded by PCHR investigators on 26 June 1996 there was consistent agreement about the main methods of torture allegedly used - notably suffocation and electro-shocks.

The PCHR medical certificates lack any detail of the prisoners’ allegations, any clinical history and any interpretation of the injuries recorded. They make no reference to any pain experienced at the time of examination or at the time the injuries were sustained. The reports make no evaluation of the consistency between the prisoners’ allegations of ill-treatment, and the findings (or absence of findings) at the time of examination. The conclusions which are made in the medical certificates relate only to the compatibility of the age of the injuries and the time at which the injuries were alleged to have been inflicted.

In the cases of Cesar Fortuna, Rameses de Jesus and Lenido Lumanog, the medical certificates present a formulaic two-part conclusion: The first conclusion is that, “*The above described physical injuries are found on the body of the subject at the time of the examination, the age of which are compatible with the alleged date of infliction*” (or in one report “*the age of which is variable*”). The second conclusion made is that, “*Under normal conditions, without subsequent complication and/or deeper involvement but not clinically apparent at the time of the examinations, the above described physical injuries will require medical attendance for a period of no less than 1 day but not more than 9 days from the alleged date of infliction.*”

While these conclusions may be true, they do not offer help in evaluating the consistency between the examinees’ complaints and the medical (but not psychological) findings. Even so, the findings of physical injuries on the prisoners gives *prima facie* cause for fearing ill-treatment, and these injuries need to be accounted for.

For the effective investigation of torture, Amnesty International believes that the PCHR and other agencies need to be given adequate resources to enable detailed examinations to be carried out by trained personnel to establish whether marks of observable physical and psychological effects are consistent with the torture that has been described. The principles for such examinations, as well as details of the required methodologies, are set out in a recently adopted international standard on the medical investigation of torture allegations, ‘*The Istanbul Protocol: Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*’. The Protocol includes the ‘*Principles for the Effective Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*’. These Principles make clear that a doctor’s examination of a person alleging torture should include:

- a history, “*including alleged methods of torture or ill-treatment, the times when torture or ill-treatment is alleged to have occurred and all complaints of physical and psychological*

1 Manila Standard, 31 July 1996: “*there were conflicting claims about these (warrantless arrests and torture). We (the PCHR) feel the issues can only be resolved if there is a full dress hearing on these....these are grey areas...we will allow the Department of Justice to determine if there was really torture or warrantless arrests based on the documents we have submitted*”.

2 Manila Standard, 7 July 1996.

symptoms;

- ↯ a physical and psychological examination; and
- ↯ an opinion, “*an interpretation as to the probable relationship of the physical and psychological findings to possible torture or ill-treatment*”.

Amnesty International is also concerned that the quasi-judicial investigative proceedings of the PCHR, in which the alleged victim and the alleged perpetrator file affidavits and counter-affidavits, at times place an undue burden upon the complainant, especially in torture cases involving ‘specialized’ methods, leaving few, if any, marks. This burden can be heightened by the fact that the victims or their families are often intimidated by the prospect of ‘proving’ their complaints, are deterred by their lack of resources, or feel vulnerable to possible retaliation by the accused perpetrators. Amnesty International believes that the PCHR plays a critical role in combatting torture in the Philippines and welcomed the Commission’s prompt attention to the complaints lodged by relatives of the Abadilla suspects in June 1996. However the organization remains concerned at the procedures of the Commission that contributed to its decision not to recommend prosecutions in relation to the torture allegations in the Abadilla case.

Patterns of torture in the Philippines

For many years Amnesty International has monitored patterns of torture of detainees in the Philippines. In the 1970s and 1980s the torture of communist insurgents and suspected sympathisers was commonplace. At the same time there were persistent, but largely undocumented, reports of similar torture techniques being used against common criminal suspects.

Today torture remains widespread, despite a range of legal and procedural safeguards designed to prevent it. Torturers appear able to act with impunity. Officials in key positions of power - including the current Secretary of the Interior and the Director General of the Philippine National Police (PNP) - have themselves been accused of committing serious human rights violations in the past, including torture. Widespread corruption and criminal activities within the PNP, together with poor training, contribute to the climate of impunity.

The most impoverished and marginalized members of society are particularly at risk. Those most vulnerable to torture today are criminal suspects, including women and children. Female detainees are also vulnerable to sexual abuse, including rape. Detainees suspected of involvement in or sympathy with armed communist insurgency or Muslim separatism are also vulnerable.

Amnesty International’s research shows that victims are frequently arrested without warrant and denied access to lawyers and relatives for several days, in contravention of Philippine law and the Constitution. Torture methods include beatings and death threats. Techniques applied deliberately so as not to leave visible marks, such as partial suffocation and electric shocks, are also used frequently to force confessions or the naming of alleged accomplices.

While many people in the Philippines are aware, and tacitly accept, that torture occurs in custody, many see it as a necessary short-cut in the fight against violent crime. Very few detainees know their rights or have confidence that complaints of torture will be taken seriously. Victims are often reluctant to pursue complaints due to fear of reprisals. Few NGOs in the country work on torture as a core concern. Although some document torture of political detainees, they lack resources to document the torture of criminal suspects, both male and female.

Amnesty International takes no position on the guilt or innocence of those accused of common criminal offences, but asserts that the fundamental dignity of every Philippine citizen, as enshrined in international human rights law and the Philippine Constitution, must be respected and upheld. Torture strikes at the heart of the dignity of any human being and can never be tolerated.

International and Philippine human rights standards

The Philippines has acceded to and is bound by the major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture). As enshrined by the ICCPR and other standards, “*no one may be subjected to*

torture or to cruel, inhuman or degrading treatment or punishment".³ By ratifying the Convention Against Torture, the Philippines has agreed to be legally bound by its provisions.

Reflecting fundamental rights enshrined in international human rights law, the rights of detainees in the Philippines are defined and protected in the 1987 Constitution (Bill of Rights) and other laws. The Constitution provides that, "*no torture, force, violence, threat, intimidation or any other means which vitiates the free will shall be used against [the accused]. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.*"⁴

³ ICCPR - Article 7; UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles) - Principle 6.

⁴ Article 111, Section 12 (2).

Appendix I

Principles on the Effective Documentation of Torture (Istanbul Protocol) (1999)

The following Principles evolved in the drafting of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which was submitted to the United Nations by an ad hoc coalition of professional and human rights bodies and individuals in August 1999. The full text of the Istanbul Protocol is available at: <http://www.phrusa.org/research/istanbul.html> .

Principles for the Effective Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The following principles represent a consensus among individuals and organizations having expertise in the investigation of torture.

1. The purposes of effective investigation and documentation of torture and other cruel, inhuman, or degrading treatment (hereafter torture or other ill treatment) include the following:

(i) clarification of the facts and establishment and acknowledgment of individual and state responsibility for victims and their families;

(ii) identification of measures needed to prevent recurrence;

(iii) facilitating prosecution and/or, as appropriate, disciplinary sanctions for those indicated by the investigation as being responsible, and demonstrating the need for full reparation and redress from the State, including fair and adequate financial compensation and provision of the means for medical care and rehabilitation.

2. States shall ensure that complaints and reports of torture shall be promptly and effectively investigated. Even in the absence of an express complaint, an investigation should be undertaken if there are other indications that torture or ill treatment may have occurred. The investigators, who shall be independent of the suspected perpetrators and the agency they serve, shall be competent and impartial. They shall have access to, or be empowered to commission investigations by, impartial medical or other experts. The methods used to carry out such investigations shall meet the highest professional standards, and the findings shall be made public.

3a. The investigative authority shall have the power and obligation to obtain all the information necessary to the inquiry. Those persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige all those allegedly involved in torture to appear and testify. The same shall apply to any witness. To this end, the investigative authority shall be entitled to issue summonses to witnesses, including any officials allegedly involved and to demand the production of evidence.

3b. Alleged victims of torture, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation. Those potentially implicated in torture shall be removed from any position of control or power, whether direct or indirect over complainants, witnesses and their families, as well as those conducting the investigation.

4. Alleged victims of torture or ill treatment and their legal representatives shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence.

5a. In cases in which the established investigative procedures are inadequate because of insufficient expertise or suspected bias, or because of the apparent existence of a pattern of abuse, or for other substantial reasons, States shall ensure that investigations are undertaken through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any suspected perpetrators and the institutions or agencies they may serve. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles.

5b. A written report, made within a reasonable period of time, shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. On completion, this report shall be made public. It shall also describe in detail specific events that were found to have occurred and the evidence upon which such findings were based, and list the names of witnesses who testified with the exception of those whose identities have been withheld for their own protection. The State shall, within a reasonable period of time, either reply to the report of the investigation or indicate the steps to be taken in response.

6a. Medical experts involved in the investigation of torture should behave at all times in conformity with the highest ethical standards and in particular shall obtain informed consent before any examination is undertaken. The examination must conform to established standards of medical practice. In particular, examinations shall be conducted in private under the control of the medical expert and outside the presence of security agents and other government officials.

6b. The medical expert should promptly prepare an accurate written report. The report should include at least the following:

i. Circumstances of the interview: name of the subject and names and affiliations of those present at the examination; the exact time and date, location, nature and address of the institution (including, where appropriate, the room) where the examination is being conducted (e.g. detention centre, clinic, house, etc.); and the circumstances of the subject at the time of the examination (e.g. nature of any restraints on arrival or during the examination, presence of security forces during the examination demeanor of those accompanying the prisoner, threatening statements to the examiner, etc.); and any other relevant factor;

ii. History: A detailed record of the subject's story as given during the interview, including alleged methods of torture or ill treatment, the times when torture or ill treatment is alleged to have occurred and all complaints of physical and psychological symptoms;

iii. Physical and psychological examination: A record of all physical and psychological findings on clinical examination including, appropriate diagnostic tests and, where possible, color photographs of all injuries;

iv. Opinion: An interpretation as to the probable relationship of the physical and psychological findings to possible torture or ill treatment. A recommendation for any necessary medical and psychological treatment and/or further examination should also be given;

v. Authorship: The report should clearly identify those carrying out the examination and should be signed.

6c. The report should be confidential and communicated to the subject or his or her nominated representative. The views of the subject and his or her representative about the examination process should be solicited and recorded in the report. It should also be provided in writing, where appropriate, to the authority responsible for investigating the allegation of torture or ill treatment. It is the responsibility of the State to ensure that it is delivered securely to these persons. The report should not be made available to any other person except with the consent of the subject or on the authorization of a court empowered to enforce such a transfer.

Definitive online text can be found as an Appendix to the 1999 report of the Special Rapporteur on Torture to the General Assembly (UN General Assembly Document A/54/426, 1 October 1999). Available by searching at the UNHCHR web site: <http://www.unhcr.ch/Huridocda/Huridoca.nsf>.