

Documenting torture

Newsletter on the use of forensic evidence in the fight against torture

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Welcome to the inaugural edition of the “Documenting torture” newsletter

Dr. Önder Ozkalipci, IRCT Medical Director and Susanne Kjær, IRCT Project Manager

Impunity is still the most serious impediment to the prevention of torture. Perpetrators are seldom brought to court, and torture survivors rarely receive any kind of redress as compensation for their suffering. In a climate of impunity, perpetrators of torture can continue their crimes without risking arrest, prosecution or punishment. Besides adding to the suffering of the victims, such a situation leads to a general lack of trust in justice and rule of law. Consequently, few complaints are brought forward and few actual prosecutions are made.

The result is a vicious circle of impunity. When perpetrators are not held responsible and victims have no access to justice and reparation, the risk that torture grows into a widespread, systematic crime increases.

Torture often takes place in secrecy, and many torture methods are designed to be as painful as possible without leaving physical marks. A key purpose of documentation, in a word, is to make it impossible for perpetrators to deny their crimes. Also, documentation puts pressure on states to fulfill their obligations under international law to fully, promptly, impartially and thoroughly investigate

allegations of torture and provide reparation to victims. For this reason, the IRCT has for years, through training, advocacy and awareness-raising, worked to promote the value and use of medical documentation of torture according to the international standards contained in the Istanbul Protocol.

Now we're aiming to intensify our efforts by facilitating direct medical and psychological support and high quality forensic documentation to some

(2009-2012) financed by the European Commission and implemented by the IRCT in partnership with the Forensic Department at the Medical Faculty, Copenhagen University, and IRCT member centres in Ecuador, Georgia, Lebanon and the Philippines. Moreover, we are fortunate and proud that more than thirty eminent forensic experts from sixteen countries have joined our newly established international group of forensic experts, who have agreed to make their expertise available to the cause.

“Forensic medical science allows torture allegations to be corroborated and is instrumental in countering the emerging loopholes facilitating impunity. The Istanbul Protocol of 1999 set an indispensable standard in this regard”

Manfred Novak, UN Special Rapporteur against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

twenty strategically selected torture cases at national and regional courts and tribunals. The intended outcome is much-needed new case law and good practice examples, which can create precedence for the future prosecution of alleged perpetrators and for victims' access to justice and reparations.

These efforts are carried out within the framework of a three-year project

The inaugural edition of this newsletter introduces the international expert group and the participating rehabilitation centres. The purpose of the newsletter – due out four times a year for the coming two years – is to bring updates on progress in relation to the work undertaken at national and international level to document cases and advocate for the importance of forensic medical evidence in torture

allegations.

The newsletter will be circulated to project stakeholders and to organisations and individuals with special interest in the documentation and legal pursuit of cases of torture. Future issues will illuminate some of the main aspects related to this context; they

will present and describe specific cases of torture and will bring information on new publications, relevant international developments and events.

Our wish and hope is that by gathering expertise and joining forces we will increase the availability of high-quality forensic documentation of torture; fa-

cilitate victims' access to this documentation as evidence in legal proceedings; and create an active focus and awareness among policy-makers, health and legal professionals and the public at large for a better understanding of and dedication to promoting the fight against impunity for torture.

Bringing cases forward in Ecuador, Georgia, Lebanon and the Philippines

Partnerships have been established with five IRCT member centres in Ecuador, Georgia, Lebanon and the Philippines where the direct medical and psychological support to strategic legal cases will be supplemented by a broad range of advocacy efforts with national authorities and other stakeholders to promote medical evidence in the fight against torture.

Four target countries have been selected in different regions in order to gain experience and exchange learning in different contexts. A fifth country, Uganda, was originally targeted but, unfortunately, the local partner felt unable to devote the necessary resources to the project. Instead, the project will strive to select and support a minimum of three additional cases in Sub-Saharan Africa. All partner centres are active in documenting torture cases according to the Istanbul Protocol. They collaborate well with local civil society organisations and work together with them to spotlight torture violations and provide legal support to survivors seeking reparations.

In the selection of target countries, it has further been important that the countries were relatively stable in political terms and that the local situation would allow for documentation, litigation and advocacy activities, also considering the risks that professionals or victims would be persecuted or harassed. Moreover, it was a prerequisite that the countries in question had ratified the UN Convention against Torture and that their court systems were



Balay Rehabilitation Centre's activities on the UN Intl. Day in Support of Victims of Torture, 26 June 2009

reasonably functional, allowing for independent medical forensic documentation to be presented as evidence in legal proceedings.

The Foundation for Integral Rehabilitation of Victims of Violence (PRIVA), Ecuador

PRIVA was established in 1996. Its staff currently comprises two physicians, three psychologists, a social worker and administrative staff. PRIVA also has a pool of consultants who are hired for specific tasks, especially in the field of prevention. The centre offers integral rehabilitation treatment to victims of torture, especially those in conflict with the law and their families. This includes medical and psychological treatment, social support and medicine and laboratory tests free of charge. Although PRIVA has so far not offered le-

gal support to victims of torture, it has extensive experience with preventative activities. Since 1997 the centre has carried out training programmes directed at the justice and penitentiary systems and has issued training manuals and manuals for prison visits. PRIVA has previously partnered with the IRCT in training university students as well as health and legal professionals in using the Istanbul Protocol. In this connection, participants established a national resource group and are currently supporting each other to present cases of torture to the country's courts.

Empathy Centre, Georgia

Empathy is a non-governmental, non-profit, professional, independent organization that provides medical and psycho – social support to victims of torture and their family members. Em-

pathy undertakes a wide range of different activities including training, awareness raising, advocacy and visits to places of detention.

Empathy has developed a strong expertise in documenting allegations of torture in accordance with the Istanbul Protocol and they are very active in providing legal assistance to victims before domestic and international courts. Currently, one of their key focus areas is to provide rehabilitation and other support to victims of the Russia-Georgia conflict in 2008.

The Restart Center for Rehabilitation of Victims of Torture and Violence, Lebanon

Restart was established in 1996 and is a founding member of the AMAN Network of torture rehabilitation centres in the Middle East and North Africa. The centre offers physical, psychological and social rehabilitation to individual victims of torture and violence as well as to their family members and refugees. Helping children and women to cope after traumatic events is one of Restarts main areas of concern. The centre has developed awareness programmes and educates professionals and the general public about torture and its consequences. It has created a national working group for the prevention of torture, which advocates for the abolition of

torture and the rights of survivors. In 2002 a legal assistance unit, founded by volunteer lawyers, was created as part of Restart. The unit conducts needs assessments, counselling, co-ordinates with the UNHCR on addressing the needs of refugee victims of torture, prepares legal files and undertakes legal interventions.

The Medical Action Group, Inc. (MAG), The Philippines

MAG is a national health and human rights NGO staffed primarily by medical and allied health professionals across the country. Established at the height of the Marcos dictatorship, MAG pioneered documenting torture cases and subsequently providing medical and psychological services to victims of torture and ill-treatment. Its rehabilitative process considers economic, political, cultural and social factors.

The Philippines lacks a national standard on the investigation, documentation and reporting cases of torture, and the Istanbul Protocol is not commonly used by lawyers and medical doctors. Consequently, each organisation involved in investigating and documenting cases has its own formats and procedures. Apart from the Commission on Human Rights of the Philippines, MAG is the only NGO in the country that adapted and made use of the Istanbul

Protocol in medical examination and documentation of torture cases. Documentation performed by MAG was instrumental in granting the first decision of the country's Supreme Court to apply the so-called Writ of Amparo to the cases of two torture survivors, ensuring their access to justice and reparations.

Through the Philippine Action Concerning Torture (PACT) programme, MAG developed the biopsychosocial approach to the rehabilitation of torture survivors and other victims of human rights violations.

Balay, The Philippines

Balay Rehabilitation Center is a psychosocial organization that promotes human rights in the Philippines. Like MAG, it was established by medical and legal professionals at the height of the Marcos dictatorship in 1985. Its mission was inspired by its founders - the late Sen. Jose Diokno, who headed the first presidential human rights committee when martial law was dismantled in 1986, and by Dr. Mitao Pardo de Tavera who served as the first secretary of the social welfare department under the Aquino administration.

Balay is a convener of the United Against Torture Coalition (UATC) that vigorously worked for the successful passage of the anti-torture law in the Philippines in 2009. Together with the Commission on Human Rights (CHR), it has successfully organized an international conference in 2008 that placed firmly the ratification of the Optional Protocol to the Convention Against Torture (OPCAT) in the agenda of the government.

It provides psychosocial services as well as legal, medical, and developmental assistance mainly to survivors of torture, particularly to persons deprived of liberty due to political circumstances. Its project sites include a community where youth at risk have been targets of state violence for being "in conflict with the law." It provides human rights seminars to police officers as well as to jail authorities.



PRIVACY: Activities on the UN Intl. Day in Support of Victims of Torture, 26 June 2009

CASES IN FOCUS

No monetary figure can hope to replace what the victims of torture have ultimately lost

Sundra Essien, IRCT

The recent \$22.4 million in damages awarded to five Liberians subjected to torture at the behest of Charles “Chuckie” Taylor, Jr. serves as a reminder of the grim reality that torture is a distinctly horrific crime with a lasting imprint on the lives of its victims.

Chuckie Taylor is the son of former Liberian dictator Charles Taylor who is currently on trial at the Special Court for Sierra Leone in The Hague. In 1997, Chuckie Taylor, a U.S. citizen, was appointed by his father as commander of a paramilitary unit involved in numerous instances of torture and brutality. The civil trial follows Chuckie Taylor’s criminal conviction in 2008, where he was found guilty and sentenced to 97 years in federal prison.

Under the U.S. Alien Tort Claims Statute and its more recent analogue, the Torture Victim Protection Act, federal courts in the U.S. have jurisdiction over civil actions filed by non-U.S. citizens for torts committed in violation of international law. The use of national legislative frameworks to litigate internationally significant matters requires that domestic court judges increasingly engage in the difficult exercise of evaluating the cost of torture and other horrific human rights abuses to victims. Confronted with this herculean task in the civil trial of Charles “Chuckie” Taylor Jr., Judge Adalberto Jordan awarded a combined \$22.4 million in damages to five Liberians subjected to torture at Taylor’s behest. This impressive figure has been conspicuously displayed in subsequent headlines often followed by references to its potential deterrent effects: a warning of sorts to would-be perpetrators to heed the financial penalties of human rights abuses.

Fear and shame

Given the US legal system’s predilection for punitive damages, it is not surprising that punishment of perpetrators and deterrence come to mind first when confronted with such an extraordinarily large damages award. But the implication that the award

is largely intended to punish and not to compensate victims, discounts the true costs of torture to which Judge Jordan refers in his order. In his two-page order, the judge recounts the physical, psychological, and economic toll that torture has taken on the plaintiffs. He refers to crippling physical ailments and the attendant medical expenses, loss of livelihood, chronic post traumatic stress, and the enduring fear and shame experienced by victims.

Call for case suggestions

We are keen to learn about any case of torture, which could potentially have strategic or precedence-setting value and impact beyond the individual case and which could benefit from forensic medical and psychological expertise.

Please send suggestions to Susanne Kjær, sk@irct.org

During the course of the trial, victims took to the witness stand and recounted sombre stories of abuse; suffering burns with molten plastic, having electric probes applied to their genitals, being raped at gunpoint. Psychologist Jethro Toomer, in trial testimony, ominously explained that the effects of torture “will last forever, until they die. That trauma is unrelenting.” These accounts suggest that while no monetary figure can hope to replace what the victims of torture have ultimately lost, if we are to attempt to represent these grave harms in terms of financial remuneration, the number should be nothing short of extraordinarily high. Ultimately the verdict is an encouraging sign towards the grim recognition that torture is a distinctly horrific crime with a lasting imprint on the lives of its victims.

Promoting forensic documentation at the UN Human Rights Council

Miriam Reventlow, Legal Advisor, IRCT

The UN Human Rights Council is one of the most important international human rights fora in the world today. Together with the WMA, the IRCT utilized the 13th regular session of the Council in March, which had a specific focus on torture, to promote forensic documentation as a tool to preventing torture. We jointly hosted the side event on “Exploring Sustainable Systems to Document Torture” in particular with regard to the role of health professionals.

Moderated by UN Special Rapporteur on Torture, Manfred Nowak, the event was attended by some 50 representatives from governments, NGOs, the academic community, UN agencies and health professional organisations. The panelists included Dr Sebnem Korur as a representative of the Forensic Expert Group as well as Dr Marija Definis-Gojanovic, member of the UN Subcommittee for the Prevention of Torture, a representative of Turkish (TMA) and Danish (DMA) medical association, and of the Association for the Prevention of Torture (APT). The panelists highlighted the need to increase the level of education of health workers in this field and to promote a multidisciplinary approach in monitoring and investigating torture

allegations. The role of medical associations was particularly highlighted presenting the example of a major training project for physicians, judges and prosecutors by the TMA and IRCT in Turkey.

The use of documentation in the fight against torture was also in the spotlight of the Council through the 2009 Council resolution on the role of health professionals in fighting torture and the Special Rapporteur’s recent stocktaking report to the Council that reiterates the importance of medical examinations and documentation according to the standards of the Istanbul Protocol on a number of occasions. Prof. Nowak emphasized that “Forensic medical science is a crucial tool in proving cases of torture and helping victims in their up-hill struggle” and that “routine medical entry and exit examinations would create a system of “checkpoints” to minimize unaccounted cases of torture and prevent shifting of blame and accountability”.

For more information on the presentations and outcomes of the Human Rights Council side event see the IRCT website: <http://www.irct.org/news-and-media/irct-news.aspx>



UN Human Rights Council. Photo credits: <http://www.flickr.com/photos/us-mission/> / Creative Commons Attribution 2.0 Generic

New forensic expert group to strengthen fight against torture

Drawing on expertise from across the globe, the IRCT, in partnership with Copenhagen University Department of Forensic Medicine, has established an expert group of forensic specialists that will help strengthen the documentation of torture and promote the value of medical evidence in legal proceedings against torturers.

For nearly a decade, the IRCT has been on the forefront of promoting the use of forensic evidence in the medical documentation of torture. The IRCT has trained thousands of health and legal professionals in how to use the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – known as the Istanbul Protocol – to identify, document and report symptoms of physical and psychological torture that can be used in court cases.

Forensic evidence and the rights of victims

International humanitarian law obliges States to investigate alleged crimes of torture and to bring perpetrators to justice. The law also guarantees that torture victims receive reparation, including redress, fair and adequate compensation and the means for as full rehabilitation as possible. However, lack of skills and knowledge among many health and legal professionals about how to effectively investigate and document torture means that many cases of torture go unpunished and victims are left without reparations.

In the coming years, the IRCT hopes to increase the availability of high quality forensic documentation concerning allegations of torture and to increase victims' access to justice by using forensic evidence in legal proceedings.

The new forensic expert group will serve as a reference point, providing advice on select individual cases and technical issues and participating in targeted missions to examine torture survivors and assist with bringing cases to court. The experts also will help to advocate for the increased use of medical evidence and continue to build a body of knowledge on the subject of forensic documentation.

Composition of expert group

The experts that comprise the group possess experience in both pathology and clinical work, as well as long-standing experience in the documentation of physical and psychological torture sequelae. The members of the expert group include the following:

- » Djordje Alempijevic (Serbia)
- » Rusudan Beriashvili (Georgia)
- » Joe Beynon (Switzerland)
- » Maximo Alberto Piedrahita Duque (Colombia)
- » Adriaan van Es (The Netherlands)
- » Ravindra Fernando (Sri Lanka)
- » Sebnem Korur Fincanci (Turkey)
- » Steen Holger Hansen (Denmark)
- » Lilla Hardi (Hungary)
- » Hans Petter Hougen (Denmark)
- » Vincent Iacopino (United States)
- » Peter Mygind Leth (Denmark)
- » Said Louahlia (Morocco)
- » Maria Dolores Morcillo Mendez (Colombia)
- » Maria Cristina Mendoça (Portugal)
- » Jens Modvig (Denmark)
- » Ulla Noring (Denmark)
- » Önder Özkalipci (Turkey)
- » Jason Payne-James (UK)
- » Michael Peel (United Kingdom)
- » Derrick Pounder (United Kingdom)
- » Christian Pross (Germany)
- » Ole Vedel Rasmussen (Denmark)
- » Hernan Reyes (Switzerland)
- » Bente Rich (Denmark)
- » Sidsel Rogde (Norway)
- » Antti Sajantila (Finland)
- » Daya Somasundaram (Sri Lanka)
- » Jørgen Lange Thomsen (Denmark)
- » Morris Tidball (Switzerland)
- » Peter Vanezis (United Kingdom)
- » Duarte Nuno Vieira (Portugal)

Website on Preventing Torture

The IRCT has devoted part of its website to the investigation and documentation of torture, with a particular focus on the Istanbul Protocol. The site reflects project activities related to documentation over the last several years and is currently being updated to serve as a resource to clinical and legal professionals engaged in, or interested to learn more about, the documentation of torture. Please visit us on www.preventingtorture.org and give us your input on topics to be included.

Desk Study on the Use of Medical Evidence in Legal Mechanisms

In collaboration with our partners in the four target countries, the IRCT has drafted a desk study that aims to analyse how different tribunals and courts around the world evaluate forensic medical evidence. Refining the global knowledge about good practices as well as the most important obstacles to the full and impartial hearing of evidence in various fora, it will help to identify priority areas for change related to advocacy and strategic litigation. The desk study will be published in TORTURE Journal later this year.

Advancing the scientific knowledge and debate on torture documentation

As parts of the efforts to strengthen the effective examination and documentation of torture, the IRCT is facilitating the development of scientific articles drawing on case examples and expertise anchored in rehabilitation centres and the IRCT's network of resource persons. Over the coming two years, at least ten articles will be published in the scientific journal TORTURE Journal and other scientific journals to respond to and discuss the challenges forensic experts face in documenting torture. We welcome information about gaps in the current literature and suggestions for specific aspects of torture documentation which need further research and analysis. Please send your suggestions to Dr. Önder Ozkalipci, oz@irct.org

Upcoming events

Date(s)	Event	Details
26 April - 14 May 2010	44 th Session of the UN Committee against Torture	The Committee will review period reports from Austria, Cameroon, France, Jordan, Lichtenstein, Switzerland, Syrian Arab Republic and Yemen. For more information, please see: www2.ohchr.org/english/bodies/cat/sessions.htm
3 - 7 May 2010	Conference on Violations of Human Rights, Linköping, Sweden	<p>The European Science Foundation (ESF) and the University of Linköping are organising a conference on 'Violations of human rights and humanitarian law: investigation and prevention of torture and death in custody' from 3 to 7 May 2010 in Linköping, Sweden.</p> <p>The aim of the conference is to bring together scientific leaders from human rights law, criminology, sociology, ethics and legal medicine with European Committee for the Prevention of Torture (CPT) experts, European Court of Human Rights (ECHR) judges and members of non-governmental organisations (NGOs) and to attract more young researchers in order to further research in this important domain.</p> <p>Three of the members of the expert group are invited as speakers in the conference – Prof. Derrick Pounder, Prof. Duarte Nuno Vieria and Dr. Morris Tidball-Binz – and the IRCT will participate alongside these to promote the medical documentation of torture.</p>
26 June 2010	26 th June Global Campaign 2010	<p>Celebrated since 1997, June 26th is the International Day in Support of Victims of Torture. On and around this day, IRCT member organisations around the world engage in activities ranging from film screenings, public rallies and sporting events to signature collections, candle light vigils and art competitions to advocate for the needs and rights of torture survivors and for an end to torture. The report "26 June 2009 – Together against Torture" (available at www.irct.org/library/26-june-global-reports.aspx) gives an uplifting overview of last year's worldwide campaign.</p> <p>In 2010 the IRCT will, as in previous year, support its members centres, making available campaign tools such as video spots; essay and art competition kits; fact sheets in multiple languages; downloadable logos for posters, T-shirts etc.; and the Pac Man-style educative game "Let's erase torture" in which the player learns key facts about torture while using an eraser to put torturers behind bars. Learn more here: www.irct.org/26june</p>

Recommended reading

Author(s)	Title	Details
René Bruin, Marcelle Reneman, Evert Bloemen (eds.)	Care Full: medico-legal reports and the Istanbul Protocol in asylum procedures	2006, Pharos ISBN: 90-75955-58-8
Council of Europe	<i>Council of Europe 'Procedural protective measures for witnesses: training manual for law-enforcement agencies and the judiciary'</i>	2006 ISBN: 978-9287160300
Camille Giffard	The Torture Reporting Handbook	Human Rights Centre, University of Essex.
Manfred Nowak and Elizabeth McArthur	<i>'The United Nations Convention Against Torture: a commentary'</i>	2008, Oxford University Press ISBN: 0199280002
Almerindo E. Ojeda (red.)	The trauma of psychological torture	2008, Praeger ISBN: 0313345147
Michael Peel and Vincent Iacopino	<i>'The medical documentation of torture'</i>	2002, Greenwich Medical Media ISBN: 1-841110-068-4
Michael Peel and Noam Lubell with Jonathan Beynon	Medical Investigation and Documentation of Torture, A handbook for Health Professionals	Human Rights Centre, University of Essex.
Hernan Reyes	<i>Doctors in prison: documenting torture in detention</i>	2008, IRCT Torture, Volume 18, November 3

Manual for the Conduct of Forensic Examination Missions

The IRCT and the Forensic Expert Group have completed the drafting of an operational manual for the conduct of forensic examination missions by medical teams engaged in the investigation and documentation of alleged cases of torture

This short manual is intended in its draft form to provide practical information for health professionals participating in missions in the context of the project. It is based on lessons learned from past medical examination missions and on the challenges faced during these missions. The manual will be continuously updated with lessons learned during the project period and the final document will be published on the closure of the project. If you are interested in receiving a copy of the draft manual, please contact sk@irct.org. We will be pleased to receive your comments on the document.



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