



Prohibition of Torture



Federal Ministry
for Foreign Affairs
of Austria



“No one shall be subjected to torture or to cruel, inhuman and degrading treatment or punishment.”

Art. 5, Universal Declaration of Human Rights, 1948.

- ▶ Defined by **Art. 1** of the UN Convention against Torture (**UNCAT**), adopted **in** 1984, entry into force **in** 1987.
- ▶ Torture and ill-treatment is a direct threat to the security of any person or group.
- ▶ The prohibition of torture is absolute.
- ▶ It is a non-derogable right according to Art. 4 of the ICCPR.
- ▶ Torture can never be justified under any circumstance.

Torture is an intentional act...

...that causes severe physical or mental suffering.

...which is inflicted on purpose.

...by a state official or person acting in an official capacity.

⇒ These elements featured in Art. 1 of the UNCAT do consider physical and psychological dimensions of torture, but are not all-inclusive!

- ▶ **Physical torture:** causes severe pain and excessive suffering, leads to mutilation, disfigurement or lasting injury as well as death.
 - ▶ **Psychological torture:** include deprivation and exhaustion techniques, solitary confinement, coercion and intimidation techniques.
- ⇒ All methods represent a grave assault on the dignity of the human being and a violation of her/his human rights.

- ▶ To retain and exercise power over opponents or people embarking on progressive ideas.
- ▶ To exercise political repression and oppression.
- ▶ To exercise punishment.
- ▶ To carry out revenge.
- ▶ To silence opposition.
- ▶ To obtain information and get a confession.
- ▶ ...Many more.

Effective Implementation and Monitoring need:

- An effective legal framework.
- Functioning control mechanisms.
- Ongoing training for those concerned.

▶ **UN Committee against Torture:** international monitoring body based on Art. 17 UNCAT.

▶ **UN Special Rapporteur on Torture.**

Latest Report 2014: “The use of torture-tainted information and the exclusionary rule - A/HRC/25/60”

▶ **Council of Europe Committee for the Prevention of Torture (CPT):** best example for a regional monitoring body.

Monitoring: Council of Europe Committee for the Prevention of Torture

- ▶ Based on the Council of Europe Convention for the Prevention of Torture and inhuman or degrading treatment.
- ▶ Started its work in 1989.
- ▶ Covers all Council of Europe member states.
- ▶ Multidisciplinary teams: doctors, lawyers, experts...
- ▶ Conducts periodic visits to member states as well as ad-hoc visits.
- ▶ Examines detention facilities, police stations, psychiatric wards...
- ▶ Reports remain confidential unless states do not cooperate (Turkey Report published in 1992 and 1996).

Monitoring: UN Committee against Torture

- ▶ Established by Art. 17 **UNCAT**.
- ▶ Started its work in 1988.
- ▶ Receives and examines state parties reports.
- ▶ May consider, upon permission of the state concerned, individual or inter-state complaints.
- ▶ **Optional Protocol to the UNCAT of 2002** established a universal and regular visiting system of detention facilities based on the model of the Council of Europe's CPT.

Monitoring: UN Special Rapporteur on Torture

- ▶ Established by the former Commission on Human Rights in Resolution 1985/33.
- ▶ Universal approach.
- ▶ Transmits communications of urgent appeals and allegation letters to governments.
- ▶ Undertakes fact-finding missions to countries which are alleged to conduct torture.
- ▶ Submits annual reports on his work to the Human Rights Council and the General Assembly.

- ▶ Good practices to prevent torture and inhuman or degrading treatment can be...
 - Grass-root, action-driven: campaigning, awareness raising or educational activities at the local level.
 - Institution and capacity building, influencing structures and institutions already set up, reforming them or building up new institutions.

- ▶ An active civil society provides for protection: *e.g.* Amnesty International and its campaigns and letters seek to protect prisoners of conscience:
“Amnesty International Launches Worldwide Campaign to Expose Global Crisis on Torture” - 2014

- 1948 Universal Declaration of Human Rights, Art. 5.
- 1949 The Four Geneva Conventions.
- 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, Art. 3.
- 1957 UN Standard Minimum Rules for the Treatment of Prisoners.
- 1966 International Covenant on Civil and Political Rights, Art. 7.
- 1966 Optional Protocol to the ICCPR.
- 1969 American Convention on Human Rights, Art. 5.
- 1979 UN Code of Conduct for Law Enforcement Officials.
- 1981 African Charter on Human and People's Rights, Art. 5.

- 1982 Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- 1985 UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- 1985 Inter-American Convention to Prevent and Punish Torture.
- 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment establishing the CPT.

- 1990 UN Rules for the Protection of Juveniles Deprived of their Liberty.
- 1992 Inter-American Convention to Prevent and Punish Torture.
- 1994 Inter-American Convention on Forced Disappearance of Persons.
- 1998 Statute of the International Criminal Court.
- 2002 Optional Protocol to the UNCAT establishing the Sub-Committee for the Prevention of Torture.
- 2006 International Convention for the Protection of All Persons from Enforced Disappearances.