## **Combating torture**

## - a manual for action

## **Contents**

Lis	ist of action examples Abbreviations				
Abl					
Lis	ist of cases				
For	ewor	d	1		
1	The	growth of the international response to torture	5		
	1.1	The rise of an international movement	5		
	1.2	Changing understandings of torture	10		
	1.3	Torture and discrimination	12		
	1.4	The importance of political will: Amnesty International's			
		12-Point Program	16		
	1.5	The international system for human rights protection	18		
2	The	e fight against torture – case studies	23		
	2.1	Introduction	23		
	2.2	Israeli Occupied Territories: Outlawing "legal" torture	23		
	2.3	Peru: Designating torture as a specific crime	31		
	2.4	USA: Federal action to combat local abuses	35		
	2.5	India: Landmark judgment establishes safeguards	39		
	2.6	Austria: Death of deportee triggers human rights reforms	44		
	27	South Africa: Exposing torture under apartheid	40		

3	Inte	rnational law and the obligations of states	57		
	3.1	Introduction	57		
	3.2	A conjunction of international standards	58		
		3.2.1 General human rights instruments	58		
		3.2.2 Specialized instruments on the prohibition and	59		
		prevention of torture			
		3.2.3 Other specialized human rights treaties	60		
		3.2.4 International humanitarian law	61		
		3.2.5 Crimes under international law: war crimes, crimes	62		
		against humanity and genocide  3.2.6 General international law	65		
		3.2.7 Non-binding standards	66		
	3.3	What is prohibited?	67		
	5.5	3.3.1 Defining torture	69		
		3.3.2 Rape as torture	74		
	3.4	The expanding understanding of the scope of torture	76		
	3.5	When is torture prohibited?	80		
	3.6	Relation to other human rights norms	82		
	3.7	Obligations of the state: prevention, investigation,			
		punishment, reparation	83		
	3.8	Protection against abuses by private individuals	85		
4	Safe	eguards in custody	89		
-		•	89		
	4.1 4.2	Introduction	92		
	4.2	Safeguards at arrest 4.2.1 Grounds and procedures for arrest	92		
		<ul><li>4.2.1 Grounds and procedures for arrest</li><li>4.2.2 Informing prisoners of the reasons for their arrest,</li></ul>			
		and of their rights	93		
		4.2.3 Notifying relatives and others	93		
		4.2.4 Safeguards during transport to a place of detention	94		
		4.2.5 Record-keeping	95		
	4.3	No secret detention	96		
	4.4	Bringing prisoners before a judicial authority	96		
	4.5	Access to the outside world	99		
	4.6	Access to legal counsel	100		
	4.7	Medical examinations and care	100		
	4.8	Habeas corpus and other judicial remedies for protecting prisoners			
	4.9	Safeguards during interrogation	103		
	4.10	Safeguards for particular groups	106		
	4.11	Safeguards at release	108		
	4.12	Blocking the use of evidence obtained through torture	109		

Contents	VII	
••	1	1

5	Con	ditions of detention	113
	5.1	Introduction	113
	5.2	Reducing the use of custody and imprisonment	118
	5.3	Accommodation	120
		5.3.1 Physical conditions	120
		5.3.2 Separation of categories of prisoners	120
		5.3.3 Location	121
		5.3.4 Sanitation, hygiene, clothing and beds	121
	5.4	Other aspects of treatment	122
		5.4.1 Food and drink	122
		5.4.2 Medical care and the role of health professionals	123
		5.4.3 Exercise, recreation and other facilities	125
		5.4.4 Contact with the outside world	127
	5.5	Discipline and security	127
		5.5.1 Searches	127
		5.5.2 Use of force	127
		5.5.3 Restraint techniques and devices	128
		5.5.4 Disciplinary punishments	130
		5.5.5 Solitary confinement	131
		5.5.6 Preventing inter-prisoner violence	132
	5.6	Record-keeping	132
	5.7	Standards for particular groups	133
		5.7.1 Women	133
		5.7.2 Children	134
		5.7.3 Lesbian, gay, bisexual and transgender people	135
		5.7.4 Pre-trial detainees	135
		5.7.5 Asylum-seekers and other immigration detainees	137
	5.8	Visits of inspection	139
	5.9	Ensuring prisoners' rights	142
		5.9.1 Explaining prisoners' rights	142
		5.9.2 Complaints	143
	011		44-
6	Utne	er settings	145
	6.1	Introduction	145
	6.2	Institutional settings	145
		6.2.1 Mental institutions and institutions for people	
		with developmental difficulties	145
		6.2.2 Corporal punishment in schools	146
	>,	6.2.3 Orphanages	147
		6.2.4 Forced medical treatment to change sexual orientation	
		or gender identity	148
		6.2.5 Ill-treatment in the armed forces	148

VIII	Combating	torture - a	manual	for	action
------	-----------	-------------	--------	-----	--------

	6.3	Use of force in law enforcement	148
		6.3.1 Police weapons	151
	6.4	Judicial and administrative corporal punishment	152
	6.5	Torture in armed conflict	155
	6.6	Violence in the community and the family	159
7	0ve	rcoming impunity	167
	7.1	Introduction	167
	7.2	Prohibition in law	171
	7.3	Investigation	173
	7.4	Bringing those responsible to justice	179
	7.5	Justice abroad: universal jurisdiction	183
	7.6	International criminal tribunals	186
	7.7	Reparation	189
8	Buil	ding a world without torture	195
	8.1	Introduction	195
	8.2	Action towards other governments	195
	8.3	Protecting people fleeing from torture	198
	8.4	Stopping the torture trade	202
	8.5	Intergovernmental action: the unfinished agenda	204
	8.6	The role of the medical profession	205
	8.7	Towards a world without torture: the role of civil society	203
An	pendi	ces	
-	pendix 1	Bibliography: Books, articles and manuals	211
Ap	pendix 2	Bibliography: Amnesty International documents	216
Ap	pendix 3	Bibliography: United Nations documents and publications	220
Ap	pendix 4	Cases and judicial rulings	225
Ap	pendix 5	Checklist of international and regional instruments	231
Ap	pendix 6	Prohibitions of torture and ill-treatment in international and regional human rights instruments (extracts)	233
Ap	pendix 7	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Part 1)	24

	•	
Appendix 8	Common Article 3 to the four Geneva Conventions of August 12, 1949 (extract)	244
Appendix 9	Rome Statute of the International Criminal Court (extracts)	245
Appendix 10	Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	247
Appendix 11	General Comment 20 on Article 7 of the International Covenant on Civil and Political Rights, adopted by the Human Rights Committee	249
Appendix 12	General Recommendation 19 on violence against women, adopted by the Committee on the Elimination of Discrimination against Women	252
Appendix 13	Declaration on the Elimination of Violence against Women	253
Appendix 14	Consolidated recommendations of the Special Rapporteur on torture	256
Appendix 15	Corporal punishment: Observations of the Special Rapporteur on torture	260
Appendix 16	Amnesty International's 12-Point Program for the Prevention of Torture by Agents of the State	263
Endnotes		267

Contents

IX