

# Torture in children

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## Abstract

This is a review article that studies the problem of torture in children. Torture in children is a significant worldwide problem, but there are no official or reliable independent statistics to measure the magnitude of the problem.

The definition of torture in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment applies to adults and children. The Convention on the Rights of the Child defines children as “every human being below the age of eighteen years”.

Torture in children happens during peace times and during political violence and war conflicts. The majority of torture victims happen during peace times. The high-risk groups are impoverished children living in the street, children deprived of parental care, children in conflict with the law, and children in detention.

During political violence and war the high risk children are the children detained during political violence, child soldiers, children internally displaced in refugee camps, detained children during the war against terrorism and children tortured by peacekeeping forces.

The perpetrators of torture in children are the members of the same forces that torture adults, generally the police, civil police, security guards

trained by police, prison guards, and military forces.

The paper identifies some preventive measure and develops recommendations for action at the local, national and international level.

*Keywords:* Torture, violence, children, human rights

*“I only wanted to be a child, but they would not let me.”*

A statement written in the tomb of a street child killed by police in Guatemala.

Violence, exploitation and abuses against children happen frequently at home, at school, in the work place, the community, during peace time, and in armed conflicts. Violence against children is widespread in all parts of the world, and hidden from the eyes of the general public. Recently, these violations have been the subject of several conferences, reports, and declarations of non-governmental organizations.<sup>1-3</sup> The basic message of these studies is that *no violence against children is justifiable and all violence against children is preventable.*<sup>4</sup>

This paper will not analyze all those abuses but only those in which the perpetrator is an agent of the state or abuse which happened when the child was under the protected custody of the state. Torture of a child

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is the most serious violation of the basic human right to personal integrity and respect for human dignity.

The objectives of this paper are:

1. To review the most relevant literature on this subject.
2. To identify significant issues related to torture against children.
3. To identify effective strategies and preventive programs.
4. To develop recommendations for action at the international, national, and local levels.

### **Background information**

#### *Human rights instruments*

##### Definition of torture

Torture is the most serious violation of a person's fundamental right to personal integrity and a pathological form of human interaction.

The United Nations (UN), in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1984, adopted the following definition:

For the purpose of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purpose as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed, or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by, or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not include pain

or suffering arising only from, inherent in, or incidental to lawful sanctions.<sup>5</sup>

This definition has been universally accepted by the 146 countries that have currently ratified the Convention.

In summary, torture is defined as a political act inflicted by a public official, with the intent and purpose of extracting a confession or information, punishment, intimidation, coercion, or discrimination. The most important criteria in the definition of torture are the intention and purpose, not the severity of the pain. Torture often occurs during detention when the prisoner is powerless and under the control of authorities. The use of force and the infliction of pain under these circumstances violate the principle of proportionality, forbidden by international law.<sup>6</sup> Torture has been defined by other organizations, such as the World Medical Association, and by individual countries in their national laws, but the UN definition is the most applicable and widely accepted for governments.<sup>7</sup>

Most countries in their domestic laws criminalize torture but not cruel, inhuman or degrading treatment or punishment (CIDT). The countries that practice torture use a more restrictive definition of torture and make the severity of pain the most important criterion of the definition. Later these countries may increase the threshold of severe pain to just short of organ failure. This allows the practice of torture to continue while officially denying its use.

This definition of torture is the same for adults and children but we have to be aware that the threshold of pain for children is lower than for adults.

##### Definition of children

Article number one of the Convention on the Rights of the Child (CRC) defined

children as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” The convention was adopted in November, 1989, and entered into force on September 2, 1990.<sup>8</sup>

“Each child has the right to his or her physical and personal integrity, and protection from all forms of violence. Children, as human beings, are entitled to enjoy all the rights guaranteed by the various international human rights treaties that have developed from the Universal Declaration of Human Rights”.<sup>4</sup>

Article 2 of the CRC states that “State Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.”

Article 37 of the CRC specifically declares that State Parties shall ensure that: “No child shall be subjected to torture or cruel, inhuman or degrading treatment or punishment, neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by person below eighteen years of age.”

Children are not a homogenous group and the definition covers different ages and stages of development. The American Academy of Pediatrics divides children into four development stages according to age:

Prenatal: first year

Early childhood: 1 year to 4 years.

Middle childhood: 5 to 10 years.

Adolescence: 11 to 21 years.

The children in each of these age groups could be a target for torture by a government with different types of abuses.

## Categories of violence and torture in children

### *By age group*

Prenatal and early childhood: 1 to 4 years

Abduction of children born in detention, when their mothers were killed for political reasons has been reported in Argentina and Uruguay. This is one of the most egregious violations of the rights of a child. A good example is the fight of the “Abuelas of the Plaza de Mayo” in Argentina.

Early childhood and middle childhood:

5 to 10 years

Forcing children to witness atrocities against parents, family members or caregivers:

These actions can be considered cruel and inhuman treatment and, in some cases, amount to torture. This practice could constitute a war crime or crime against humanity when committed as a systematic attack against civilian populations in times of war.

Children are obliged to witness the violent detention and torture of parents. Multiple examples have been documented in Latin America during Argentina’s “Dirty War.” Children have also witnessed the killing of family members as documented during the Rwandan and Guatemalan genocide.<sup>9, 10</sup>

Adolescence: 11 to 21 years

Torture during detention for minor crimes.

Torture for political participation.

Torture for religious participation.

Torture for sexual orientation.

Torture during detention for ethnic persecution.

Torture during detention in adult prisons.

Torture during war time.

### *By place of occurrence*

The UN study of violence against children selected several settings in which violence is

taking place in the *home and family, in schools and educational settings, in state care and justice institutions, in places of work, and in the community*. Using this classification, torture can occur only in the institutional and community settings.<sup>4</sup>

Institutional torture occurs in situations of children in detention facilities, violence in the context of the administration of justice (pre-trial detention) and capital punishment. Within a community setting, the report describes police violence in the street and torture by the judiciary.

Violence in institutional settings administered by the state

- Torture of children in institutional care.
- Torture of children in custody and detention.
- Violence and torture against children with disabilities in state institutions.

Many children live a significant part of their lives under the control and supervision of authorities or justice systems. These institutions vary in scope and can be long term residential or institutional care, emergency shelter, homeless shelters, and foster care. Some children are in special medical facilities for the disabled or psychiatric wards. Other children are in custody or detention. These institutions have responsibility to provide protection and guidance to the children under their care, but instead, these children are subjected to violence and torture.

Violence in the community

- Violence by law enforcement agents.
- Violence and torture of children living in the street.
- Violence and torture against sexual minorities.

### High risk children

Children at the highest risk of being *tortured during peace times* are the street children in their different categories:

- Impoverished children living in the street
- Children deprived of parental care generally are poor children that have been abandoned by their biological or adopted parent. These children are entitled to protection and assistance from the state, and are eligible for placement in foster care or orphanages, but ultimately ended up homeless.
- Children in conflict with the law.
- Children in detention.

Children at high risk of torture during political violence and war conflicts:

- Detained children during political violence.
- Child soldiers.
- Children living in internally displaced persons camps in country of origin or in refugee camps.
- Detained children during the war against terrorism.
- Children tortured by peacekeepers.

### Torture of children during peace times

*Torture of impoverished street children and children in conflict with the law*

There has been a significant migration from rural areas to cities in developing countries. The newcomers do not receive any help and they tend to settle in precarious cardboard towns on the periphery of big cities. They create a belt of poverty call “favelas” in Brazil, “callampas” in Chile, and “villa miseria” in Argentina. The income of those living in poverty or extreme poverty cannot sustain a family. At an early age, the children are obliged to work for survival.

It is a reality that the street is both a home and a workplace for many children. In the street, they work in undocumented street jobs cleaning shoes, selling cheap merchandise, or they are pushed towards crime. These street children face dangers of all kinds during their daily ambulation: drugs, drug traffickers, prostitution, or even murder by death squads in some countries.

These groups of children have been abandoned and ignored by society. They are powerless. They are fighting for survival hour by hour, day by day. Torture and maltreatment by police is part of their daily life. They do not seek medical care. Nobody offers them relief for their suffering. Citizens have become blind to these children. These invisible children walk in the city boulevards, eating when possible, once a day or a few times a week.

Mullis and Cook<sup>11</sup> studied thirty street children in Rio de Janeiro, Brazil. They compared these thirty children with children of the same age group selected from local schools and living with their parents. They measured two groups' ability to obtain food, to grow by body mass index (BMI), and their levels of social support.

The majority of street children (80%) are not living with their parents. Only 20% of them visit their family daily, and 30% had no contact with family. The majority of street children (87%) reported found a place to sleep 7 days a week, but 27% reported not having a residence. Both groups were able to obtain some daily food, but the quality of the food was better in school children and these supported children scored higher in BMI measurements.<sup>11</sup>

#### *Reason for detention*

The most frequent reasons for detention were:

- Captured in fraganti stealing a wallet, food, or opening a car.
- Suspected of a criminal offense.
- Aspiration of glue fumes: considered by police as an addiction, but used by street children as a suppressant of hunger and cold.
- Children's refusal to give money collected while begging to a police officer requesting a bribe.
- False accusation of petty crimes such as stealing or disorder in the street.
- No reason (illegal detentions).

#### *Place of torture*

Torture and maltreatment happen in the street when police detained or transported children to the police station or to the outskirts of the city where they were often abandoned. Torture also happens during detentions at police headquarters, in prisons, or while children reside in government custody.

#### *Magnitude of the problem*

An Amnesty International survey in 2000 found that 75% of countries practice torture systematically despite the *absolute prohibition* of torture and cruel and inhuman treatment under international law, even when these countries have signed the CAT.<sup>12</sup>

Torture of children is a significant worldwide problem, but there are not official or reliable independent statistics to measure the magnitude of the problem.<sup>12</sup>

Child violence by security forces is extremely frequent in the streets or during detention, sometimes without complaints from the public. The rights of children are not generally recognized, these abuses are not reported nor investigated, and few perpetrators are held accountable for their crimes.

The victims do not have the capacity to report, because they do not have political

power and they consider these maltreatments as normal. If the violation is not reported, if human services organizations or governments agencies do not register these events, the problem does not exist at the national or international level, and there is no cause for action.

Few organizations have published reports on the torture of children. Amnesty International, OMCT, Save the Children (UK), Casa Alianza (Central America), Human Rights Watch (HRW), and United Nations Children's Fund (UNICEF). UNICEF denounces police abuse and torture of children in their reports and publications under the heading "Children In Conflict With The Law".<sup>1, 2, 13-15</sup>

Covenant House (Casa Alianza) has published the most complete report of documented cases of torture of street children in Honduras and Guatemala. Casa Alianza documented 133 cases of torture between 1990 and 1997, 63 from Honduras and 70 from Guatemala. Each case the report provides a description of the event, the torture methods applied, and photographs of the lesions and a statement of the action taken to prosecute the perpetrator. The majority of tortured children discussed in the report were boys 122 (91.7%) and only 11 (8.3%) were girls, as shown in Table 1.<sup>16</sup>

**Table 1.** *Torture of children in Honduras and Guatemala. Honduras from March 1990 to August 1997. Guatemala from 1992 to August 1997.*

	Male	%	%	Total
Honduras	57	90.5	6	63
Guatemala	65	92.8	5	70
Total	122	91.7	11	133

Source: Table prepared with information from: Informe de tortura a niños de la calle en Guatemala y Honduras. Covenant House. America Latina 1990-1997. Publicación de Casa Alianza, 1997.

#### *Method of torture and killing of children*

The methods of torture in children are the same to those used on adults. Different reports have described children being exposed to extremes of heat and cold, deprived of food and water, deprived of sleep, punched, kicked, beaten with different instruments, whipped, burned with cigarettes and fire, electric shocks, hanging, cuts with sharp instruments, stripped naked and sexually assaulted and raped.<sup>12, 17</sup>

Casa Alianza has documented methods of torture in the children's cases of Central America: humiliation, punching, kicking, beatings with a police baton or the butt of a gun, phalange (beating the soles of the feet), burning with cigarettes, stabbings, intentional biting by police dogs, hanging of children by their arms, pouring of caustic glue on face and hair, and subjecting them to sexual torture and rape.<sup>18</sup>

#### *Type of torture in girls*

In Honduras, six girls were detained. Five (83%) of them were raped and the others were severely beaten. In Guatemala, five girls were detained. Only one was raped, two were severely beaten, and two were stabbed to death.<sup>16</sup>

#### *Killing of street children*

Several reports have documented the killing of children in detention who have been tortured during police detention.<sup>17, 18</sup>

There have been reports of unlawful killings of street children by police, security officers, and death squads. There are reports of these killings from countries such as Brazil, Colombia, Honduras and Guatemala.<sup>16, 18-20</sup>

#### *Killing of street children in Brazil*

The world was shocked in 1980 when newspapers around the world reported the killing

of street children by police and death squads in Brazil. Death squads were operating in nine of the 27 Brazilian states at that time.<sup>19</sup>

Death squads were hired by shopkeepers to get rid of alleged criminals and petty thieves. Death squads were staffed by off-duty police officers, civil police and military. The police estimate that 500 homeless children were murdered each year, mostly while they slept. Until 2000, some death squads were still active. Both children and adults were victims of death squads.<sup>21,22</sup>

Roldao Arruda published a report in the newspaper *O Estado de Sao Paulo* on 1,000 children killed in 1990. He concluded that 30% of these deaths were caused by the police, 50% by death squads calling themselves "justiceiros," and the remaining 20% by unknown criminals. Most of the policemen have yet to be convicted for killing street children.<sup>23</sup>

#### *Killing of street children in Honduras and Guatemala*

The Covenant House (Casa Alianza) report of the 133 cases reveals that thirty one (23.3%) of these children were killed. Twenty of those were killed by the police or military and eleven were killed by unknown perpetrators. It is suspected that the killers were agents of law and order, as shown in Table 2 and 3.

**Table 2.** *Torture of children in Honduras and Guatemala 1990-1997. Total of tortured children who were killed, based on 133 reported cases.*

	Total torture	Killed children	%
Honduras	63	15	23.8
Guatemala	70	16	22.8
Total	133	31	23.3

Source: Table prepared with information from: Informe de tortura a niños de la calle en Guatemala y Honduras. Covenant House. America Latina 1990-1997. Publicación de Casa Alianza, 1997.

#### *Methods of killing*

The principal methods of killing street children in Honduras and Guatemala were gun shots (mostly in the head) followed by beating and stabbing, as shown in Table 3.

#### **Torture of children during political violence and war**

##### *Torture of children during political violence and military dictatorship*

#### Chile

Chile was one of the longstanding democracies in Latin America. A bloody military dictatorship ruled the country from 1973 to 1989. Since 1990, the country has been a democratic state with free elections.

Chilean President Ricardo Lagos set up a National Commission on Political Detention and Torture in 2003. The objective of the commission was to determine the number and identity of those who suffered imprisonment and torture for political reasons during the Pinochet military dictatorship. The commission received the testimony

**Table 3.** *Torture of Children in Honduras and Guatemala 1990-1997. Methods of killing by police or unknown perpetrator.\**

	Police	Unknown	Total	%
<i>Honduras</i>				
Gun shot	7	3	10	67
Beaten	1	3	4	27
Stabbed	1		1	6
Total	9	6	15	100
<i>Guatemala</i>				
Gun shot	8	3	11	69
Stabbed	3	2	5	31
Total	11	5	16	100

\*) One child was known to have been killed by a civilian

Source: Table prepared with information from: Informe de tortura a niños de la calle en Guatemala y Honduras. Covenant House. America Latina 1990-1997. Publicación de Casa Alianza, 1997.

of 35,865 victims. 27,000 were accepted immediately as valid and over 7,000 are in revision. This is the largest data base of records of detention and torture in the world.

The commission published a Spanish report and an English executive summary. The commission reported that 27,255 persons were detained and tortured, 23,856 of them (87.5%) were men and 3,399 were women (12.5%).

The report also confirmed that 1,080 of victims (3.96%) were children, as represented in Table 4. The distribution by age shows that the majority of the children (98.1%) were adolescents. Unfortunately, no further analysis will be possible because their testimonies will remain confidential and no one will have access to them for the next 50 years.<sup>24</sup>

Terrorist and subversive activities was the justification for detention and torture in 978 of these cases (92.5%).

Foundation for the Protection of Children Injured by States of Exception (PIDEE), an organization oriented to the rehabilitation of child victims of repression during the military dictatorship in Chile, was founded in 1979. More than 3,000 children received services until 1992. Some of the children were physically tortured during imprisonment and the majority witnessed the violent invasion of their home, destruction of their belongings by security forces,

military, or police, and witnessed the beating and detention of their parents or another member of their family. Although some only witnessed the brutal detention of their parents and were not directly tortured, the psychological impact was so intense and prolonged that the experience is equivalent to psychological torture.

The children's behavior and family life changed dramatically. The children became aggressive, irritable with constant crying, exhibited nervous tics, stuttering, and exhibited extreme dependence on adults. Symptoms also included eating problems (anorexia or bulimia), sleeping problems such as difficulty getting to sleep, bed wetting, and nightmares, poor school performance due to memory loss, difficulty concentrating, dyslexia, fear of the dark, and fear of those in uniform. These children lost their childhood.<sup>25</sup>

PIDEE developed individual, family and group therapy, psycho pedagogy methods, and cultural workshops. Children also received drama, music and art therapy. During play and art therapy children talked and drew about death, jail, absence of the father, unemployment and the wish that the detained parent would return home.<sup>25-27</sup>

The return to a normal life depends on the loss of fear that the traumatic experience will not be repeated. The return of the detained parent also improved the chances of return to a normal life, but unfortunately, this was not always possible. In spite of this, most treated children developed their capacity to adapt to the new situation.

Argentina

Military dictatorships ruled Argentina from 1976 to 1983. During this period, many babies were kidnapped. Many of these parents were killed. In other cases, pregnant mothers were taken to clandestine centers.

**Table 4.** Children detained during the military dictatorship in Chile. September 1973 to March 1990.

Age	Number	Percentage
16 to 17	766	70.9
13 to 15	226	20.9
Under 12	88	8.2
Total	1080	100.0

Source: Table prepared with the information of the report of National Commission on Political Detention and Torture, 2005.<sup>24</sup>

Babies born in these centers and kidnapped from their parents were adopted by military families with a new name and identity. The objective of this crime was to remove the children from subversive families to give to “good” families.<sup>28</sup>

The grandmothers of these babies organized themselves and became “Abuelas (Grandmothers) de Plaza de Mayo” with a mandate to fight for the return of their grandchildren and to defend the right to an identity.<sup>29, 30</sup>

Since 1977, over 400 children have been recorded as missing. The Abuelas have investigated all adoptions in local and federal courts during this period. They have also examined all registered births in governmental offices. In 1997, the Abuelas began a national campaign among young people to investigate their identity if they have any doubts about their lineage.<sup>29, 30</sup>

The Argentinean government created the National Committee for the Right Identity (CONADI) in 1992. The main objective of the agency is to scientifically investigate identities. The process includes the use of a database of the missing children, investigation of the legality of an adoption, and blood analysis of immunogenetic tests conducted by the National Bank of Genetic Data. These genetic analysis permits conclusively include or exclude an individual from a biological family. By February, 2009, the Abuelas identified 97 of the disappeared children.<sup>29</sup>

#### The Philippines

A study of child torture victims in the Philippines reported 415 cases of torture in children over two decades from 1976 to 1995. This period is reflective of the three military dictatorships of Ramos, Aquino, and Marcos. The victims in this study have several factors in common: poverty, relative

geographic remoteness, growing industrialization with strong presence of military forces to protect industries, and political families residing in close geographical proximity. These poor, rural, heavily militarized areas, with little communication outside the region, make for very difficult conditions in which to report and document human rights abuses. All these factors favor impunity for perpetrators.

By age group, the highest numbers of documented cases were between 15-18 (80%) years of age. Of these, 64% were tortured during arrest. Only 8% of perpetrators were charged with a crime, and most of them were 58% released after detention and torture.

#### *Torture of children during armed conflict*

In modern wars, the civilian population is often a target. Children are amongst the first casualties of any armed conflict, always the most vulnerable and innocent of victims. In the last decade alone 1.5 million children have died in wars. Four million have been disabled and a further 10 million traumatized. Many children suffer violence at the hands of enemy forces in several ways:

- They can be detained and tortured to glean information relative to the whereabouts of parents or other family members.
- They can be killed without registration of death and reported as missing children.
- Children are detained and tortured because of suspicion of collaboration with enemy forces.
- Children witness the killing of his/her complete family as in Rwanda and Guatemala.
- Children survive as war orphans.
- Rape of young women during war is a battle strategy as in the Balkan war,

Rwandan genocide, and now in Uganda and the Democratic Republic of the Congo.

During armed conflict in the Philippines, the projected goals of torture of these children were to obtain information about armed resistance groups. Torture was also used in attempts to force a confession, to incriminate others, to take revenge, to create fear in the community, and to destroy the personality of the victims.<sup>17</sup>

As in the case of Amir, described by the paper of C. Green, a child was tortured in front of his father to force a confession. Later, Amir witnessed the torture of his father, which led to his father's death.<sup>31</sup>

#### *Torture of child soldiers*

Child soldiers are the children who have been singled out for recruitment below 18 years of age. Armed forces and armed opposition groups exploit them as combatants around the world.

Although most child soldiers are between 15 and 18 years old, significant recruitment starts at the age of 10 and the use of even younger children has been recorded.

Approximately 250,000 children under the age of 18 are thought to be fighting in conflicts around the world, and hundreds of thousands more are members of armed forces who could be sent into combat at any time.

Poverty and years of armed conflict have made it easier for a whole generation of children to be drawn into the armed conflict. For some, soldiering has become a form of survival or has represented a form of identity in a context of widespread trauma. Other children have been drawn, sometimes after years of indoctrination, to the political, ethnic or military agendas of their chosen group. In such situations it is more accurate

to talk of indirect force rather than volunteering.

During training children are more afraid of their officers than the dangers to which they are exposed. Cowardice, failure to follow orders without question are severely punished. Beating, whipping, hanging, solitary confinement, sexual abuses, and sometimes punishment by death are frequent during indoctrination and training. Easily manipulated, children are sometimes coerced to commit grave atrocities, including rape and murder of civilians using assault rifles such as AK-47s and G4s. Some are forced to injure or kill members of their own families or other child soldiers. Others serve as porters, cooks, guards, messengers, spies, and sex slaves.

Demobilization of child soldiers cannot happen without substantial support from the international community to provide sufficient financial and technical assistance to all actors involved in the process to ensure a comprehensive and coordinated approach. The authorities, commanders and leaders of armed political groups are responsible to prevent recruitment of children and to allow and facilitate their demobilization.<sup>32-34</sup>

#### *Torture of children*

##### *living in internally displaced camps*

Some 26 millions people worldwide are currently living as internally displaced persons (IDP). They were forced to flee their home because their lives were at danger but they did not cross an international border.

4.6 million people were newly displaced in 2008. The biggest new displacement in the world was in the Philippines, where 600,000 people fled fighting between the government and rebel groups. There were also massive new displacements in Sudan, Kenya, Democratic Republic of Congo, Iraq, Pakistan, Somalia, Columbia, Sri Lanka and

India. The largest internally displaced populations are found in Sudan (4.9 million), Colombia (up to 4.3 million) and Iraq (2.8 million).

Women and children are a high risk group for violence and human rights abuses by government forces and other groups. In 2008 displaced women and girls were particularly exposed to rape and sexual violence, domestic violence and exploitation.

Displaced children are extremely vulnerable. In many countries, they were forced to work or they could not go to school. Displaced children were at risk of forcible recruitment in at least 13 countries where IDP camps had been infiltrated by armed groups.<sup>35</sup>

*Torture of unaccompanied refugee minors*

Unaccompanied refugee minors are children and youth who migrate to another country because their parents or caregivers have died, abandoned them, or simply gotten separated amid the chaos of war or civil unrest. Some of them are street children. The number of unaccompanied minors seeking asylum has increased dramatically in industrialized countries in recent years. During their displacement they are at high risk of violence and torture by police, border patrol forces, military or other violent groups.

Refugee minors who have entered another country can experience brutal detention. They are placed in custody or in detention centers pending a determination of their legal status. Frequently they are denied access to legal counsel, or education. They are also subject to punitive measures, such as handcuffing, shackling, solitary confinement. In some countries they are detained with violent young offenders or adults.<sup>36</sup> The real alternative is placing these children in foster care and community-based services.

*Torture of children in armed conflict and the war against terrorism*

The torture of children in the context of counterterrorism pre-dates the “War on Terror” launched by the United States government in 2001. There are many reports of the detention and torture of children in Colombia, Peru, Sudan, Kenya, and the Philippines. Children become victims much in the same ways of those children suffering through armed conflict.<sup>37</sup>

Human Rights Watch (HRW) reports that the U.S. military authority, operating the Multinational Forces in Iraq, has detained some 2,400 children since 2003. Adolescents between the ages of 13 and 17 have been detained in Iraq and accused of supporting insurgents and militias. Some of the children are as young as ten. Detention rates increased from 25 children in a month in 2006 to 100 children in 2007.<sup>38</sup>

The U.S. military keeps most children at Camp Cropper in Baghdad. Children have been interrogated for days and weeks by military units in the field before being sent to prison. They do not have legal support and they have limited contact with their families. The average length of detention is 130 days and some of them have been detained for more than a year without charges or trial. The United States, as of May 12, 2008, is holding 513 children as “imperative threats to security”.<sup>38</sup>

A UN committee said it was concerned about reports of “cruel, inhuman or degrading treatment” of children held in Guantanamo and Iraq. Some of these children have been classified as “unlawful combatants,” and have been charged with war crimes and subjected to prosecution by military tribunals without due account of their status as children.”

The United States is holding three detainees at Guantanamo, in custody for more

than five years, who were initially detained as adolescents. Two of these young men, Omar Khadr and Mohammed Jawad, are both facing trials before a military commission. Mohammed El-Gharani, now 21, was detained when he was just 14 years old. He has tried to commit suicide at least seven times. There is clear evidence these boys have been tortured.

“Under international law, adults who recruit children for combat are to be prosecuted for that offense. But the children caught in combat are to be protected not prosecuted,” said Diane Amann, a law professor at UC Davis University. The Geneva Convention and the Convention on the Rights of the Child hold that it is the responsibility of the state that captures juveniles in the battle fields to work to rehabilitate them towards integration into society.<sup>39</sup>

U.S. forces have not released statistics on the number of children that have been transferred to Iraqi custody.<sup>38</sup> Iraqi military forces have detained at least 220 children during military operations. The detained children are treated as adults. Local NGOs have documented evidence of torture perpetrated during interrogation.<sup>40</sup>

#### *Torture of children by peacekeepers*

A recent report by Save the Children describes the abuse of children in post conflict areas by peacekeepers that have been drafted to help them. The report documents cases of sexual abuse of children in Ivory Coast, DR Congo, Burundi, Liberia, Southern Sudan, Eritrea, and Haiti. Most of these abuses go unreported and unpunished, with children too scared to report them.<sup>41</sup>

The report identified different forms of sexual abuse such as trading sex for food, forced sex, child prostitution, and sexual slavery. The vulnerable children were or-

phans, children separated from their parents, children from poor families, children displaced from their home communities, and children who depend on humanitarian assistance for survival.

These abuses have been chronically under reported because children fear the loss of material assistance and support, and they fear the stigmatization, and the threat of retribution or retaliation. In some cases, there is a cultural acceptance to the abuse of children. Children do not know how to report the crimes, they feel powerless to report it, there is a lack of effective legal services, and the children have a lack of faith in the response.

In the cases that have been officially reported few victims received adequate response, treatment, or justice in the form of perpetrator punishment. The report made three key recommendations: an effective local mechanism of the reporting of abuses, a new global watchdog to monitor the situation, and efforts to tackle the root causes or drivers of abuse.<sup>41</sup>

### **Physical and psychological consequences**

#### *Psychological consequences of torture in children*

The mental health consequences of torture to the individual are usually more persistent and protracted than the physical aftereffects.

The Center for Integrative and Development Studies of the University of Philippines has extensive experience in the study of the psychological consequences of torture in child survivors.<sup>17</sup>

During torture, children lose control of the situation and have no access to the internal or external resources of an adult. Adults or family can not protect them and they feel extremely vulnerable. They do not have the ability to act in this crisis situation,

and they become apathetic and indifferent when they lose faith in adults.

In a sample of 415 children, researchers found that child torture victims feel fear and anxiety within their immediate environment, especially when they are dealing with strangers. The symptoms increased when they were confronted with their own experiences.<sup>17</sup>

The children felt anxious if they were alone. They suffered from sleep problems and recurrent nightmares. They also suffered from feelings of helplessness and apathy. The loss of self-esteem due to their experience of extreme humiliation attacked their self-respect and personal identity.

Sudden behavioral changes occurred and children became violent, overly dependent, withdrawn, neglectful of their routines, and tended to isolate themselves. They also had learning difficulties and showed poor performance when they returned to school. Their memory and concentration were affected and attention span was limited.

The detention and torture of a child breaks up the harmony of a family. The family is fearful that other relatives could be accused of a political crime and detained. They feel powerless.

Similar symptoms have been found in child victims of severe political repression in Latin America. Individual children responded in different ways. They experienced high levels of fear, anxiety, insecurity, and aggressiveness. They had difficulties expressing themselves corporally or emotionally. They complained of insomnia and nightmares and regressive behaviors such as bed-wetting. Argentine psychologists have described children with high intellectual abilities, but emotional immaturity.<sup>28</sup>

John Briere, Ph.D., has studied severely abused and neglected children. He believes these traumas interrupt normal child de-

velopment, such as the acquisition of self capacities. Impaired self capacities lead to reliance on cognitive, emotional, and dissociation avoidance strategies that further preclude the development of self capacities. Consequently, these children suffer more psychological distress when they experience traumatic events.<sup>42</sup>

#### *Physical consequences of the torture of children*

Few child victims of torture received medical care, thus the documentation of physical consequences is scant. An exception has been the 133 cases of the torture of children in Honduras and Guatemala documented by Casa Alianza in order to prosecute the perpetrators. The findings were published in a book. All of those victims showed acute temporary injuries, such as bruises, hematomas, lacerations, cuts, burns, cigarette burns, and fractures of teeth or bones, that were documented with photographs.<sup>9</sup>

The most important physical consequence of torture is chronic long-lasting pain experienced in multiple sites. Survivors also experience diverse psychophysiological symptoms.<sup>7</sup> PIDEE in Chile has documented frequent headaches and abdominal pain in child victims.<sup>28</sup>

#### **Approaches to treatment**

Child victims of torture is a group with immense unmet needs that has been abandoned by society. They look for medical care only in extreme circumstances. The information on treatment of children torture victims is scant or nonexistent.

The majority of child victims recover from their physical injuries and they are apparently functioning, but psychological symptoms are persistent. Of the 415 cases reported in the Philippines only six have undergone complete psychological treatment.<sup>17</sup>

The approach to treatment developed by

PIDEE in Chile and in other Latin American countries has been successful. Guatemalan rural health promoters help child survivors of torture and repression in Mayan communities. They base their psychosocial assistance on the cultural traditions of the indigenous populations, such as oral story telling, dramatization, use of masks, religious practices and natural plant resources. The health promoters use workshops organized as supplements to other development and health projects.<sup>28</sup>

John Briere, Ph.D., developed a model of treatment for children severely abused and neglected. He called the approach *self-trauma model*. The model is a synthesis of current dynamic, cognitive, and behavioral approaches that have been found helpful in the treatment of severe child abuse trauma. The model is based on the concept that symptoms in abused and neglected children are hyper developed adaptive mechanisms to maintain internal stability. The treatment is oriented toward helping the child survivors to do better what he or she is already attempting to do.<sup>42</sup>

It is necessary to study whether the symptoms of a child survivor of torture follow the same pattern of the abuse and neglected children of Briere's group.

### **Torturers and impunity**

#### *Torturers*

Although torture has been practiced for millennia, knowledge about perpetrators of torture and how they are trained has been difficult to find. Manuals on techniques for interrogation and curricula for training intelligence officers have been classified until recently. Psychologically, perpetrators are usually "normal," but subjected to brainwashing or a dissociative process.<sup>7</sup>

The perpetrators of torture in children are the members of the same forces that

torture adults generally the police, civil police, security guards trained by police, prison guards, and military forces. Rebel Forces are also perpetrators when they control and administer a territory. It has been documented that child soldiers also act as perpetrators of atrocities to other children and adults.

In situations of war, the principal perpetrators are the military and paramilitary forces (69%).<sup>17</sup>

#### *Impunity*

The lack of social and political power of the victims favors almost complete impunity for the perpetrators. Children do not file complaints or they do not report crimes committed by adults, especially if the perpetrator is a member of the police or another state agency. Reasons child survivors do not file complaints include:

- Fear of reprisals.
- Lack of impartiality in the investigation.
- The same state organization that committed the crime investigates the facts.

The Istanbul Protocol could be a useful instrument in bringing perpetrators of the torture of children to justice. The assessment of torture survivors has only recently been systematized. The Istanbul Protocol is a manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment. It includes modules for medical, psychological, and legal professionals. The Protocol was approved as an International Instrument by the General Assembly of the United Nations resolution 55/89 on December 4, 2000.<sup>43</sup>

#### *Use of the international human rights system to protect abuses and torture of children*

Issuing worldwide urgent appeals

Since 1991, OMCT has been sending out

urgent appeals under the heading “Child Concern,” requesting immediate and effective actions concerning specific cases of violence against a child. These requests are circulated to several thousand recipients around the world. After receiving information of a reliable source and double checking the information in the country, OMCT issues an urgent action appeal.

*Use of the Human Rights Committee and Committee against Torture (CAT)*

Philippines

The Philippines was scheduled to report to the UN Human Rights Committee in 2003. Philippines NGOs lead by PREDA prepared an alternative report of the juvenile Justice system in the country. PREDA and the other NGOs made a powerful presentation during the briefing session and in a press conference in Geneva. The Committee report cited several references to this alternative report and made requests for changes to the legal system.

Honduras

In 1996, the Supreme Court of Honduras implemented a rule that allowed judges to send under-age detainees to jails holding adults. This detention plan, called “Autoacordado,” violated the Honduras Constitution and the CPC. Casa Alianza and other NGOs began a program to monitor jails and document violations of the human rights of detained children. They presented 300 Habeas Corpus cases that were rejected by the judiciary on “Autoacordado” resolution grounds. Casa Alianza and CEJIL presented the problem to the Inter American Commission on Human Rights. The Commission accepted the cases and forced the State to cancel the rule and compensate each child with US \$20 per day of illegal imprisonment.<sup>44</sup>

*Use of the Inter American Human Rights Court*  
Guatemala

In 1990, five street boys, aged 15-20 were kidnapped, tortured and murdered by the police in Guatemala. The bodies of four of them were found in a place called “Bosques de San Nicolas.”

The boys’ eyes had been enucleated, their ears, and tongues cut off.

Casa Alianza brought criminal charges against four policemen in a Guatemalan Court. After three years litigation, the policemen were acquitted. Casa Alianza and CEJIL presented the case to the Inter American Commission on Human Rights in Washington. The Inter American court of Human Rights in Costa Rica ordered the Guatemalan Court to reopen the criminal case against the accused. The Guatemalan government was ordered to pay US \$500,000 to the families of the children, name a school after victims, and implement a national plan to benefit street children. This was the first case in the history of the Inter American court in which children were the victims.<sup>18</sup>

These are three land mark examples of human rights organizations effectively utilizing the International Human Rights Commissions and Courts. These cases also set an example for advancing the application of law at the domestic level in the fight against impunity and the process of obtaining reparations for the victims and their families.<sup>44</sup>

**Strategies and effective programs for prevention**

The majority of torture in children happens during peace times and the victims are the impoverished street children.

*Planning prevention*

Prevention is based on the identification of the risk factors. These are the most significant risk factors for children:

- A high proportion of poverty and extreme poverty.
- A high proportion of children in the families of the population or country under study.
- Violence at home and/or dysfunctional families.
- Failure of social support system to protect neglected, abandoned, and abused children.
- The use of the justice system against children in need instead of providing protection.
- Lack of training of law enforcement and juvenile system personnel on child development, needs of neglected children, and children's legal rights.

We can measure the magnitude of these risk factors in a social group, region or country. The highest levels of poverty and extreme poverty in the world are found in Sub-Saharan Africa, South Asia, East Asia, the Pacific, and Latin America according to the most recent study of the World Bank.<sup>45</sup>

In Latin America, Haiti, Honduras, Nicaragua, and Guatemala are the countries with the highest proportion of poverty and families with the highest proportion of children. In Honduras and Guatemala there is a higher level of awareness and a coalition of NGOs interested in the subject. Honduran groups are already studying the magnitude of the problem.

Similar situations can be found in South Asia in countries such as Bangladesh, Pakistan, India, and Sri Lanka.

The plight of street children and their deaths was a matter of public concern in many Latin American countries in the eighties. The first Latin American seminar on community alternatives for assistance to street children was held in Brazil in 1984.

Other countries have developed Pro-

grams to prevent the torture in children in conflict with the law.

#### *Proposed actions In the community*

- Organize a network of NGOs interested in the rights of children.
- Create a social support system to help children that have been neglected, abandoned or abused.
- Organize and empower street children as social actors, aware of their rights, to gain access to education and health services.
- Public opinion and media campaign to promote positive image of the needs of street children.
- Monitoring and reporting of abuses: research shows an effective and transparent data collection and publication is required. The Defense for Children International has studied this problem and has developed twelve indicators of violence against children deprived of liberty. These are minimum standards that every country should be able to produce and publish.<sup>46</sup>

#### *Proposed actions in the justice system<sup>47</sup>*

High level training of all personal working with children in the Juvenile Justice System

- Inter-sectorial training courses for those who are in direct contact with children (including judges, prosecutors, police officers, military personnel, prison staff, lawyers, and social workers).
- Detention as the last resort for criminal offenses by studying the possibility of alternative sanctions.
- Legal support: most of the abuses of a child happen at the time of arrest, during interrogation by officials, and while in police custody at the police station. The conditions of detention are generally bad and the children are often detained with adults.

- Support for detained children at police stations, in prisons and in courts by trained volunteers, social workers, paralegals, or lawyers to monitor their situation. These juvenile advocates are contacted upon the arrest of a child to help to find the child's parents. Some countries allow a lawyer to be present at the police station, and in other countries an attorney may be present as a silent witness, or only after 24 hours of police detention.
- Maintain a database on Juvenile Justice Indicators such as the number of cases received, accepted, and referred.

#### *Ending impunity*

- Police accountability through review board, Ombudsman, NGOs.
- Criminalization of violence, torture, or killing of children by the authorities.
- Creation of an effective complaint system.
- Independent and impartial investigation of any claims of torture.
- Criminal, civil, and administrative prosecution against individuals responsible for these human rights violations.

#### *Legislative changes*

Each government should adopt legislation to create an independent Juvenile Justice System (JJS). The JJS should be based on international treaties and international standards. Governments should also adopt legal requirements to implement and monitor the United Nations 15 Juvenile Justice Indicators. In addition, governments should adopt the independent inspections recommended by the Additional Protocol of CAT.

#### *Strategies for social change: the example of Brazil*

An example of a strategy on prevention is in operation now in Brazil. Many NGOs

working with street children organized a national network called the National Street Children's Movement (MNMMR). These NGOs and advocacy groups were able to get the support of the press to create public awareness on the magnitude of the problem. They were also able to organize the street children by sectors in a city. The first "National Street Children Congress" was held in Brazil in 1986. These organizations began to discuss a long term strategy for social change to eradicate the root causes of the extreme poverty and other risk factors for street children.

#### **Local, national and international recommendations**

##### *To IRCT Secretariat*

Investigate possible sources of funding for an international program related to the torture of children oriented initially to study the magnitude of the problem, advocacy, preventive programs and research. These programs should be implemented in a geographical area with high prevalence of torture and killing of street children as in Central America and South Asia.

##### *To donor governments and foundation*

To support the effort of international organizations and local NGOs to investigate and rehabilitate child torture survivors.

##### *To national networks and local centers*

Each network and center should:

- Identify in each country and region which international treaties related to children have been signed and ratified: Convention On The Rights Of The Child.
- Identify if these international obligations have been codified in domestic laws.
- Identify children at high risk of being detained, maltreated and tortured.

- Identify and collaborate with others NGOs interested in the plight of tortured children.
- Monitoring: collect any existing information in your area to measure the magnitude of the problem, particularly reasons for detentions, torture by organization and regions of the country, age groups, and socio economic status of the victims.
- Determine whether the registration of age is carried out systematically during detention.
- Create awareness of the magnitude of the problem at the level of community and civil society.

*How to measure the magnitude of the problem in a center or programme.*

*Quantitative indicators:*

Analysis of child population enrolled in a rehabilitation program

A rehabilitation program upon admission of a survivor of torture should record the age and the age at the time of the torture to identify:

- Number of torture survivors admitted to the program below 18 year of age.
- Number of adults admitted to the program for treatment of torture suffered when they were children.

Children in conflict with the law

- Number of children in preventive detention.
- Number of children admitted with physical evidence of abuse after police investigation.
- Sexual abuse in detention.
- Number of children in adult prison.
- Number of children in adult cells.
- Number of children in solitary confinement.
- Child deaths in detention.

How to improve reporting

- Review check list of violence related issues.
- Review definition and use definition provided by UNSGVAC Study.
- Broaden the base of participation in reporting including representatives such as parents, classmates, teachers, associations, and other professionals with whom the child has contact.
- Develop permanent monitoring system in institutions.
- Support and develop child rights coalitions.
- Develop national advocacy campaigns among the public and the authorities on the urgency of the problem.

### **Conclusion**

The highest risk groups and the highest prevalence of torture or murder of children are the street children and the children in conflict with the law.

The most significant risk factors are poverty, extreme poverty, high proportion of children in a family, and the failure of society to protect neglected, abandoned, and abused children.

The most important solution to improve torture and killing among children is a strategy for social change that combats the problem of extreme poverty and provides a positive prevention model program.

## Annex 1

### Organizations working to promote children rights

These organizations have been identified because their names are listed in scientific publications, United Nations, and NGO reports.

#### *United Nations*

Office of the United Nations High Commissioner for Human Rights (OHCHR)  
 United Nations Children's Fund (UNICEF)  
 United Nations Department of Peacekeeping Operations (DPKO)  
 United Nations Development Programme (UNDP)  
 United Nations Office on Drugs and Crime (UNODC)  
 United Nations World Health Organization (WHO)

#### *International organizations*

Advocacy and Child Protection, Consortium for Street Children, UK  
 Amnesty International (AI)  
 Casa Alianza in Latin América: Costa Rica, Guatemala, Honduras, Nicaragua, México.  
 Committee on the Rights of the Child, The Netherlands  
 Center for Justice and International Law (CEJIL)  
 Consortium for Street Children, UK  
 Defense for Children International (DCI)  
 Global initiative to end all corporal punishment of children, UK  
 Human Rights Watch (HRW)  
 International Association of Youth and Family Judges and Magistrates (IAYFJM)  
 International Federation of Red Cross and Red Crescents Societies  
 International Juvenile Justice Observatory (IJJO)

International Institute for Child Rights and Development (IICRD)  
 International Rehabilitation Council for Torture Victims (IRCT)  
 International Save the Children Alliance, Norway  
 Penal Reform International (PRI)  
 Save the Children, UK  
 Terre des hommes – aide à l'enfance (Tdh)  
 World Vision International  
 World Organization Against Torture (OMCT)

#### *Coalition of International Organizations related to Children Rights*

Interagency Panel on Juvenile Justice (IPJJ)  
 Office of the United Nations High Commissioner for Human Rights (OHCHR)  
 United Nations Children's Fund (UNICEF)  
 United Nations Department of Peacekeeping Operations (DPKO)  
 United Nations Development Programme (UNDP)  
 United Nations Office on Drugs and Crime (UNODC)  
 Committee on the Rights of the Child;  
 Defense for Children International (DCI)  
 International Association of Youth and Family Judges and Magistrates (IAYFJM)  
 International Juvenile Justice Observatory (IJJO)  
 Penal Reform International (PRI); Save the Children UK  
 Terre des hommes – aide à l'enfance (Tdh); and  
 World Organization Against Torture (OMCT)

#### *National organizations*

Argentina  
 Center of Legal and Social Studies on Childhood and Youth  
 Cambodia  
 Bar Association of Cambodia

Costa Rica  
 Defense for Children International, Costa Rica

Egypt  
 Association for Human Rights Legal Aid (AHRLA)

Honduras  
 Center for Investigation and Promotion of Human Rights in Honduras (CIPRODE)  
 Committee for the Defense of Human Rights in Honduras (CODEH)  
 Coordinator of Institutions for the Right of the Child (COINPRODEH)  
 Centro de Prevención Tratamiento y Rehabilitación para las Víctimas de la tortura y sus familiares (CPTRT)

India  
 National Judicial Academy

Kenya  
 Child Rights Advisory Documentation and Legal Center (CRADLE)

Kyrgyzstan  
 Youth Human Rights Group

Malawi (Benin)  
 Eye of the Child in Blantyre  
 Malawi CARER  
 Center for Legal Assistance (CELA) in Lilongwe  
 Youth Watch Society, Mzuzur

Philippines  
 Ateneo Human Rights Center, Child Rights Unit  
 Free Legal Assistance Volunteers Association (FREELAVA)  
 Philippine Action for Youth Offenders (PAYO)  
 People's Recovery, Empowerment and Development Assistance Foundation Inc

South Africa  
 Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN)

Uganda  
 Defense for Children International-Uganda Legal Aid Clinic

April 26, 2009

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