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Governments and human beings have various ways of avoiding collisions. Unfortunately they frequently tend to use violence, sometimes resorting to barbaric methods. A minor group of countries in the world have hundreds of years' experience in obtaining a common balance without force and bloodshed. Even some dictatorships manage to avoid the use of severe force.

In the age of internationalism, humanitarians have a right to interfere in the internal affairs of other countries – out of solidarity. To their mind the notion of impunity is simply unacceptable. Yet the amnesty laws of Argentina, Brazil, Chile, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Surinam, and Uruguay from the 1980s cannot be neglected. In some cases, the military have promulgated amnesty laws before relinquishing control to civilian authorities; in others, the civilian rule that succeeded a dictatorship has paid a “price” for it in the form of passivity towards the evil forces of the past.

The over-thrown dictatorships, be they Latin American, south European (as Spain, Portugal, and Greece), or former “second world” (the Soviet Union and its satellites) have all preferred national reconciliation to legal showdown with the past. It is therefore no easy task for the international community to “argue” so to speak with the individual states, where the wish for a normal, quiet life and stability, in the widest sense of the word, tends in some circles to remove the focus from the quest for justice.

Parliamentarians, lawyers, and doctors, however, will not let go. History also shows that the gate to new gross violations of human rights is opened if the violators have the benefit of impunity. The chances of hitting just some of the thousands of servants of torture are slim. But the international community has a moral obligation to continue its pressure on the new regimes to punish these torturers – in the interests of all their victims.

It is noteworthy that last year the Inter-American Commission on Human Rights declared that the amnesty laws of Argentina, Uruguay, and El Salvador were in violation of the American Convention on Human Rights of 1969, which went into force in 1978. Some scholars of international law now go so far as to derive a duty to punish gross human rights violators from the UN Convention against Torture (that went into force in 1987) or from customary international law. However, international penal law is still embryonic and more a matter of learned discussion than a tool of seekers of justice.

Yet it is with deference that human rights fighters quote the decision in the case Filartiga v. Peña-Irala, reached by a US court in 1980, by which the Paraguayan doctor Joel Filartiga and his daughter Dolly were awarded one million US dollars as compensation for the loss of their son and brother, Joeltito. However, no money has been paid by the torturer and hangman, police officer Peña, who was first deported from Paraguay to the US to be out of the way when Dr. Filartiga had his son exhumed. Dr. Filartiga subsequently sued the Paraguayan state. Nor did the Paraguayan authorities do anything to arrest Mr. Peña when he was later deported from the US back to his home country. No help was provided from the new democratic regime, which succeeded the brutal dictatorship of Alfredo Stroessner in 1989.

The cases of Velasquez, Godinez, and Fairen and Solis from Honduras must also be mentioned. They concern the forced disappearances of two young Hondurans and two Costa Ricans, assumed to have been killed by security forces in Honduras. The Inter-American Court of Human Rights in its judgment of June 1989 awarded the families compensation (Velasquez 165,000 US$, Godinez 133,000 US$), thereby rejecting the Honduran Government’s attempt to classify the disappearances as “accidental deaths”. The court furthermore ordered Honduras to pay “moral damages” of 80,000 US$ to each family for their psychological sufferings. Only some compensation has been paid from the Honduran government. But the guilty one in Human Rights violation have not been punished.

The young Human Rights Commission and Court of the Americas have still much to learn. First and foremost they ought to use their staff and material resources more effectively in order to produce evidence and find facts. Hitherto the record of a case is created only by the complainants – occasionally the state – but nothing in the Inter-American Convention prevents the Commission from employing attorneys to look for documentation on its own initiative. In many cases, important information and documentation is not available to the victims of human rights abuse. However, the authorities may decide to show it to the Commission. In the Honduran cases, for instance, the passivity of the Commission forced the petitioners and their attorneys to conduct very expensive fact-finding operations.

Apart from the endless talks of legal experts, medical doctors continue their efforts to perform the less severe sanction of professional exclusion of doctors who in some way, actively or passively, participated in torture. This fight, waged not least by Latin American doctors, has given small results; many doctors who violated their Hippocratic oath in a torture clinic are still at large and active as general practitioners or at hospitals.

Supposing of course that the torturers deserve real punishment (imprisonment), the medical world is occupied with the fate of the victims and the need somehow to impose sanctions against the inhuman behaviour of their tormentors. At least the new democracies of the world can count on continuous support from the surrounding world for this.
Los gobiernos y las personas tienen a su alcance varias maneras de evitar los conflictos. Desafortunadamente recurren con frecuencia a la violencia, empleando a veces métodos bárbaros. Un reducido grupo de países tienen cientos de años de experiencia sobre cómo mantener un equilibrio mutuo sin usar la fuerza y el derramamiento de sangre. Incluso algunas dictaduras logran evitar el uso de la fuerza bruta.

En la era del internacionalismo, los defensores de los derechos humanos tienen derecho a injerirse en los asuntos internos de otros países... por solidaridad. Desde su punto de vista la noción de impunidad es simplemente inadmisible. Aun así, las leyes de amnistía de Argentina, Brasil, Chile, El Salvador, Guatemala, Haití, Honduras, Nicaragua, Surinam y Uruguay, promulgadas en los años ochenta, no pueden ser pasadas por alto. En algunos casos los militares han promulgado leyes de amnistía antes de dejar el poder en manos de las autoridades civiles; en otros casos, el régimen civil que mantuvo sin usar la fuerza y el derramamiento de sangre. Incluso así, laseyes de amnistía de Argentina, Brasil, Chile, El Salvador, Guatemala, Haití, Honduras, Nicaragua, Surinam y Uruguay, promulgadas en los años ochenta, no pueden ser pasadas por alto. En algunos casos los militares han promulgado leyes de amnistía antes de dejar el poder en manos de las autoridades civiles; en otros casos, el régimen civil que siguió a la dictadura ha tenido que pagar el "precio" de la pasividad frente a las fuerzas viles del pasado.

Las dictaduras derrocadas -sean latinoamericanas o sur-europeas (como España, Portugal y Grecia) o del anterior "segundo mundo" (la Unión Soviética con sus países satélites)- todas han preferido la reconciliación nacional al enfrentamiento con el pasado. Por esto no es tarea fácil para la comunidad internacional "enfrentarse", por así decirlo, con los estados individuales donde el ansia de una vida tranquila y de estabilidad, en el sentido más amplio de la palabra, tiende a apartar, en algunos sectores, la atención del hambre de justicia.

Pero los parlamentarios, los abogados y los médicos no están dispuestos a enterrar el pasado. La Historia también nos enseña que si los violadores pueden beneficiarse de la impunidad, queda abierto el camino a nuevas violaciones graves de los derechos humanos. La posibilidad de poder castigar a tan sólo unos pocos de los miles de torturadores es muy pequeña. Pero la comunidad internacional tiene el compromiso moral de continuar presionando a los nuevos regímenes para que castiguen a esos torturadores, en interés de todas sus víctimas.

Cabe notar que el año pasado la Comisión Interamericana de Derechos Humanos declaró que las leyes de amnistía de Argentina, Uruguay y El Salvador violaban la Convención Americana de Derechos Humanos de 1969, en vigor desde 1978. Hoy, algunos expertos en derecho internacional incluso afirman que de la Convención contra la Tortura de la ONU (que entró en vigor en 1987) o del derecho internacional consuetudinario se deriva la obligación de castigar a los responsables de graves violaciones de los derechos humanos. Sin embargo, el derecho penal internacional está todavía en estado embrionario y constituye un tema de discusión erudita antes que un instrumento para los que buscan justicia.

No obstante, los defensores de los derechos humanos citan con optimismo la resolución del caso Filartiga contra Peña-Irala dictada por un tribunal estadounidense en 1980, por la cual se concedía al médico paraguayo Joel Filartiga y a su hija Dolly un millón de dólares como indemnización por la pérdida de su hijo y hermano Joelito. Pero ni un cénitmo ha sido pagado por el torturador y verdugo, el oficial de policía Peña. Este fue deportado de Paraguay a EE.UU. evitando así que estuviera presente cuando el Dr. Filartiga hizo exhumar el cadáver de su hijo. Subsiguientemente el Dr. Filartiga demandó al Estado paraguayo. Las autoridades paraguayas tampoco hicieron nada para arrestar al Sr. Peña cuando posteriormente fue deportado otra vez de EE.UU. a su país. No se ofreció ningún tipo de ayuda por parte del nuevo régimen democrático que en 1989 sucedió a la brutal dictadura de Alfredo Stroessner.

Debemos mencionar también los casos de Velásquez, Godínez, y Fairen y Sola de Honduras. Estos casos se refieren a las desapariciones forzosas de dos jóvenes hondureños y dos costarricenses, presuntamente asesinados por las fuerzas de seguridad en Honduras. En su veredicto de junio de 1989, la Corte Interamericana de Derechos Humanos otorgó indemnizaciones a las familias (Velásquez 165.000 US$, Godínez 133.000 US$) rechazando el intento del gobierno hondureño de clasificar las desapariciones como "muertes accidentales". La Corte además ordenó a Honduras pagar 80.000 US$ a cada familia como "indemnización moral" por sus sufrimientos psíquicos. El gobierno hondureño sólo ha pagado parte de la indemnización. Pero los culpables de las violaciones de los derechos humanos no han sido castigados.

La joven Comisión de Derechos Humanos y la Corte de las Américas tienen mucho que aprender todavía. Ante todo deberían emplear su personal y sus recursos materiales más eficazmente para obtener pruebas e indagar en los hechos. Hasta ahora la documentación de un caso lo aporta solamente el recurrente -y ocasionalmente el estado- pero nada en la Convención Interamericana impide que la Comisión por su cuenta entre abogados para buscar documentación. En muchos casos la documentación importante no está disponible para las víctimas de los abusos, en tanto que es posible que las autoridades decidan facilitarla a la Comisión. En los casos hondureños, por ejemplo, la pasividad de la Comisión obligó a los solicitantes y sus abogados a efectuar indagaciones muy costosas.

Aparte de las interminables discusiones de los expertos en derecho, el colectivo médico continúa sus esfuerzos para que se sancione con la exclusión profesional a los médicos que de alguna manera, activa o pasivamente, hayan participado en la tortura. Esta lucha, librada en gran medida por médicos latinoamericanos, ha visto pocos triunfos; muchos de los médicos que violaron el juramento hipocrático en una cámara de tortura siguen ejerciendo libremente la medicina como médicos generalistas o médicos de hospitales.

Dando por sentado que los torturadores merecen un castigo de verdad (prisión), los profesionales de la medicina se preocupan por el destino de las víctimas y por la necesidad de sancionar de alguna manera el proceder infrahumano de sus afortunadores. Al menos en esto las nuevas democracias pueden contar con un apoyo constante del mundo exterior.
United Nations confirmed universality of Human Rights

The Vienna Conference in June passed pertinent resolutions on the fight against torture, doctors’ responsibility, and the need for education in medical ethics.

The worldwide fight against torture took some essential steps forward at the UN’s large Human Rights conference in Vienna, 14–25 June 1993. 171 of the UN’s total of 183 member states took part and in a detailed 35-page final document confirmed the universality of human rights, pointing out that worries about their violations are of international concern, and that consequently the world’s nations have the right to intervene in the affairs of other countries.

Much of this has been said several times before, but this time it was precisely formulated, and attempts to water down the rights with reference to cultural differences were given short shrift.

According to Professor Bent Sørensen, member of the UN’s own committee against torture, inhuman or degrading treatment or punishment, (CAT), the approval of the delegates for further measures to hinder torture opens new possibilities for the year-long international efforts to limit any attempt to use torture. Among the 2000 non-governmental organizations that gathered for meetings, seminars, etc., in the basement of the Austrian International Center, where the official conference took place upstairs, was also the IRCT (International Rehabilitation Council for Torture Victims). These NGOs, without participating in the government conference had an important indirect influence on it.

“It is of the utmost importance to teach the signs and symptoms of torture to police officers. UN personnel, doctors, and nurses, particularly those who are sent out on UN missions. It is actually enough to give the first mentioned persons about two hours of training, but it should be obligatory”, says Professor Sørensen, who, together with Dr. Inge Genefke, the medical chief of the Danish Rehabilitation and Research Centre for Torture Victims (RCT), trains Danish police officers. This training started in 1993.

In a speech to the plenary assembly of the conference, Professor Sørensen pointed out that it was impossible to imagine any dictatorship which would not use torture. 72 states have so far ratified the special UN Convention Against Torture, but only 30 have agreed to allow individuals to complain directly to the CAT, and hitherto it has only received nine complaints. The task of the committee is also to receive reports from the member countries about torture prevention, etc. in their own legislation.

The Convention for Prevention of Torture (CPT) which the Council of Europe has created allows a special European committee to inspect prisons and police stations and thereby to nip a lot of torture in the bud (several such visits have previously been mentioned in TORTURE). Professor Sørensen is also a member of this committee and he has taken part in inspections in several countries. He is greatly of the opinion that the UN committee, as suggested, should also be given the right to such inspections.
Las Naciones Unidas confirmaron la universalidad de los derechos humanos

La Conferencia de Viena, celebrada en el mes de junio, adoptó resoluciones pertinentes sobre la lucha contra la tortura, la responsabilidad de los médicos y la necesidad de educación relativa a la ética médica.

La lucha universal contra la tortura hizo progresos importantes en la Conferencia sobre los Derechos Humanos, celebrada por la ONU en Viena del 14 al 25 de junio de 1993. Participaron 171 de los 183 Estados miembros de la ONU y, en el detallado documento final, de 35 páginas, los países participantes confirmaron la universalidad de los derechos humanos, señalando que la preocupación por las violaciones concierne a la comunidad internacional y que en consecuencia, las naciones del mundo tienen derecho a entrometerse en los asuntos de otros países. Esto se ha dicho muchas veces antes, pero esta vez fué formulado con precisión, y no prosperaron los intentos de diluir los derechos con referencia a las diferencias culturales.

Según el profesor Bent Sørensen, miembro del Comité contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, de la propia ONU, la aprobación de medidas ulteriores para prevenir la tortura abre nuevas perspectivas para los esfuerzos desplegados desde hace años para limitar cualquier intento de usar la tortura. Entre las 2000 organizaciones no gubernamentales que acudieron a reuniones, seminarios, etc., en el sótano del Centro Internacional Austriaco – en el que la conferencia oficial se celebró arriba – se hallaba también el IRTC (Consejo Internacional para la Rehabilitación de las Víctimas de la Tortura). Sin participar en la conferencia gubernamental, estas ONGs ejercieron una importante influencia en la misma.

“Es de suma importancia enseñar a agentes de policía, personal de la ONU, médicos y enfermeras – sobre todo los que son enviados en misiones de la ONU – cuáles son los signos y síntomas de la tortura. En efecto, para los primero mencionados son suficientes dos horas de enseñanza, pero debe ser obligatorio”, dice el profesor Sørensen, quien junto con la Dra. Inge Genefke, directora médica del Centro de Rehabilitación e Investigación de las Víctimas de la Tortura (RCT), de Dinamarca, imparte cursos a agentes de la policía danesa. Esta actividad comenzó en 1993.

En un discurso dirigido a la Asamblea Plenaria de la Conferencia, el profesor Sørensen señaló que era inimaginable una dictadura que no recurriese a la tortura. Hasta el momento 72 Estados han ratificado la Convención contra la Tortura, pero sólo 30 se han comprometido a permitir que las personas individuales recurran directamente al Comité contra la Tortura de la ONU (CAT), que hasta ahora sólo ha recibido nueve quejas. Otra función del Comité es la de recibir informes de los países miembros sobre la prevención de la tortura, etc., en su legislación nacional.

La Convención para la prevención de la Tortura (CPT), creada por el Consejo de Europa, permite que un comité especial europeo inspeccione las prisiones y comisarías de policía, cortando de raíz gran parte de la tortura (se ha hecho referencia a varias visitas de inspección en ediciones anteriores de TORTURE). El profesor Sørensen también es miembro de este Comité y ha participado en inspecciones en varios países. Opina que al Comité de la ONU, tal como se ha propuesto, se le debe conceder también el derecho a realizar estas inspecciones.

No debe olvidarse que algunos estados democráticos, a pesar de condenar oficialmente la tortura, la siguen practicando, o, mejor dicho, que algunos países por su afán de obtener confesiones rápidas utilizan métodos que deben calificarse de tortura. El mensaje de la Conferencia de la ONU es inequívoco: la tortura debe abolirse, por lo que debe darse alta prioridad a la prevención. Antes que nada, los gobiernos deben solucionar estos problemas a nivel nacional. Las líneas directrices siempre deben ser los principios de ética médica y el papel del médico en la protección de los prisioneros contra la tortura y otros tratos crueles, inhumanos o degradantes.

De cierta manera, la Asamblea General de la ONU ya había adoptado estos
Del documento final adoptado por la Conferencia Mundial sobre los Derechos Humanos, celebrada del 14 al 25 de junio de 1993:

"¿No a la tortura!"
La Conferencia Mundial se congratula de que un número importante de Estados miembros haya ratificado la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, exhortando a todos los demás Estados miembros a ratificar cuanto antes la Convención.

La Conferencia Mundial quiere subrayar que una de las violaciones más atroces contra el ser humano es el acto de tortura, porque destruye la dignidad humana privando a las víctimas de la capacidad para continuar sus vidas y sus actividades.

La Conferencia Mundial reitera que de acuerdo con las leyes de los derechos humanos y de la humanidad, el no ser torturado es un derecho inalienable en cualquier circunstancia, incluso en casos de disturbios o conflictos armados, sean internos o internacionales.

Por tanto, la Conferencia Mundial insta a todos los Estados a poner fin inmediato a la tortura y a erradicar esta práctica vil para siempre a través de la estricta observancia de la Declaración Universal de los Derechos Humanos y de las Convenciones correspondientes, y, cuando sea necesario, reforzando los mecanismos existentes. La Conferencia Mundial exhorta a todos los Estados a colaborar en todo con el Relator Especial para que pueda cumplir su mandato.

Debe atribuirse atención especial a asegurar el respeto universal y cumplimiento efectivo de los "Principios de Ética Médica Aplicables a la Función del Personal de Salud, Especialmente los Médicos, para la Protección de Personas Presas y Detenidos contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes", adoptados por la Asamblea General de las Naciones Unidas.

La Conferencia Mundial pone de relieve la importancia de iniciar otras acciones concretas en el marco de las Naciones Unidas con miras a poder atender a las víctimas de la tortura y asegurar medios más eficaces para su rehabilitación física, psíquica y social. Debe darse alta prioridad a la obtención de los recursos necesarios para este fin, inter alia mediante contribuciones adicionales al Fondo Voluntario para las Víctimas de la Tortura.

Los Estados deberán abrogar la legislación que permita la impunidad de las graves violaciones de los derechos humanos tales como la tortura, enjuiciando a los responsables de tales violaciones, con el fin de crear así una sólida base para el cumplimiento de la ley.

La Conferencia Mundial reitera que los esfuerzos por erradicar la tortura deben centrarse ante todo en la prevención, por lo que insta a la pronta adopción del Protocolo Opcional a la Convención, cuya finalidad es el establecimiento de un sistema preventivo de visitas regulares a los lugares de detención."

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The UN Fund for Torture Victims

How it is financed, how it works

By Jaap A. Walkate*

Today over 50 States Members of the United Nations, out of a total of about 175 members, are party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This is still far too few in the light of reports by an organization such as Amnesty International, according to which torture is still actively practised in more than 100 countries.

In addition to the adoption of this Convention, the United Nations has also appointed a Special Rapporteur to examine questions relevant to torture, to seek and receive credible and reliable information on such questions, and to respond to such information without delay. This rapporteur tries to establish contacts with governments on the basis of information that he receives about the practice of torture, which may lead him in certain cases to take urgent action with regard to governments which are under suspicion of committing or condoning torture. Such urgent action may take the form of a telegram or a visit to the country concerned, either confidentially or in the open, by way of mobilizing public opinion.

How the fund came about

It is widely recognized that victims of crimes — and that is what torture is — need more attention and rehabilitation than the perpetrators. It was with this in mind that the UN General Assembly established in 1978 the Voluntary Fund for Victims of Torture in Chile; the Fund’s mandate was enlarged in 1981 to cover victims of torture anywhere in the world.
The Fund is administered by the Secretary-General and his staff, assisted by a Board of Trustees, composed of a Chairman and four members who have wide experience in the field of human rights, serve in their personal capacity, and come each from one of the five regions recognized within the United Nations. The Board is currently composed of experts from Costa Rica, Jordan, Kenya, The Netherlands, and Yugoslavia. They meet once a year to study requests for aid submitted in the course of the year and offer their advice and recommendations to the Secretary-General.

The Fund obtains the bulk of its money from States Members of the United Nations, which are under no obligation ("Voluntary Fund") to contribute. Fortunately, a yearly increasing number of governments decide to contribute to the Fund, more and more so on a regular basis and in similar amounts, which makes it possible for the Board of Trustees to plan ahead and to commit itself in the long run. Contributions have also been received from private individuals and non-governmental organizations. In The Netherlands, a special bank account was opened under the auspices of the Dutch branch of the International Commission of Jurists.

Big network, many projects

Since its creation, the Fund has collaborated with over 50 organizations which altogether submitted some 100 projects and sub-projects for implementation in 40 countries. These projects fall essentially into the following fields: psychotherapy, medical care, social rehabilitation and training of professionals (doctors, psychologists, psychotherapists, paramedical personnel, social workers, etc.) and scientific research for the specialized treatment of torture victims. Besides the torture victims themselves, the Fund has been able to help the relatives of victims who also suffer psychologically, economically, and socially. Furthermore, it has assisted with the development and application of suitable treatment for torture victims.

The Fund supports a variety of projects. Some of them are rather large clinics or centres for counselling, socio-psychological workshops, such as those in Copenhagen, London, Paris, and Toronto, where hundreds of new survivors are registered every year; on the basis of yearly requests for assistance, each one receives contributions from the Fund in the range of several tens of thousands of United States dollars. A new medical project was started in Berlin, where large numbers of survivors are expected in the future due to the developments in Eastern Europe and the former Soviet Union.

The great majority of the projects are relatively small in size, although no less important on that account, many of them in countries where torture was, until fairly recently, government policy, such as Argentina, Chile, Uruguay, or countries where torture is still practised either with or without the consent of the Government.

Such projects are sometimes carried out under most difficult circumstances, in faraway places, and with too many patients for small staffs, often consisting of volunteers. Correspondence with these projects is seldom without difficulties.

A helping hand from the Red Cross

In the course of the years, the Board of Trustees and the United Nations staff have developed methods of assessing the bona fides of new projects, of evaluating submitted budgets, of setting conditions in terms of quality of aid, bookkeeping, and reporting. Indeed, the Board exercises the utmost care in studying the financial reports and the reports on activities, before advising the Secretary-General to release grants to projects. As a matter of fact, in a very small number of cases, regular contributions have been suspended because of unsatisfactory methods of reporting or no reporting at all.

In order to give an impression of the scale of the activities of the Fund, the following figures should suffice. Since it began its operations in 1983, well over 200 grants, totalling over US$ 6 million, have been authorized for projects. For the year 1991, over 70 new grants were made, corresponding to some 60 projects and representing an amount of some US$ 2 million. Every year, States Members of the United Nations have to decide on their voluntary contributions to the Fund; fortunately there is a fairly constant flow of resources into the Fund.

The League of Red Cross and Red Crescent Societies in Geneva, Switzerland, has submitted for funding a handbook for help to refugees and asylum seekers, a training manual for people dealing with survivors. The Fund has gladly contributed to the publication.

References

1) Please see TORTURE, Volume 3, number 1 1993 page 4 and 31.

* Chairman, Board of Trustees
United Nations Voluntary Fund for Victims of Torture
Palais des Nations
Ch-1211 Geneva 10
Switzerland

"In Swedish, please"

A South American refugee woman in Sweden, tortured in body and mind, had not dared to see a gynaecologist for over 10 years following her sexual torture. However, she suffered from internal pain, and her doctor referred her to a female gynaecologist, who was prepared to listen to the woman's terrible story. When she got to the consulting room, however, the refugee just could not speak, although she knew Swedish well. The specialist encouraged her: "Tell me in Spanish".

The woman began to talk, and went on for a long time. When her words ebbed away, the doctor said kindly: "Now, could you tell me in Swedish, I'm afraid I don't understand Spanish". The gynaecologist had understood that the woman first had to formulate the whole story in her mother tongue. This led to an atmosphere of sympathy and understanding, which allowed the refugee woman to recount the story once again in Swedish and thus externalize and communicate her traumatic experience.

Practical work in England

One of the biggest projects is the support of the Medical Foundation for the Care of Victims of Torture in London, which is managed by Ms Helen Bamber and Dr Rodriguez. The Foundation does not receive funds from the British Government and has to find its own finances wherever it can. Many of the Foundation's clients are indirect victims. That is to say that they mostly have been forced to watch torture of members of their families and friends. In five years, the Foundation cared for between 2,500 and 3,000 victims. The clients come from all over the world, from over 40 countries with names which must be very familiar to you all.

Ms Helen Bamber's work at this centre consists in substantiating claims of asylum seekers and supervising voluntary staff, psychiatrists, doctors, interpreters, etc. The centre offers family and couple therapy where one partner has been sexually tortured.

Finally, the need for scientific research into the reasons why people engage in torture, why they use their human creativity for the destruction of other human beings.

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1) Please see TORTURE, Volume 3, number 1 1993 page 4 and 31.

* Chairman, Board of Trustees
United Nations Voluntary Fund for Victims of Torture
Palais des Nations
Ch-1211 Geneva 10
Switzerland

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El Fondo de la ONU para Víctimas de la Tortura

Por Jaap A. Walkate*

De un total de 175 miembros de la Organización de las Naciones Unidas, 50 de ellos participan en la Convención contra la Tortura y Otros Tratos o Penas Cruelés, inhumanos o degradantes. Los miembros que participan son demasiado pocos cuando se considera los informes hechos por una organización como Amnistía Internacional que dice que la tortura es aún practicada activamente en más de 100 países.

Además de haber accedido a esta convención la Organización de las Naciones Unidas ha nombrado a un Relator Especial que tiene como tarea examinar cuestiones relacionadas con la tortura, buscar y recibir información fehaciente sobre tales asuntos y reaccionar de inmediato. Este Reportero intenta establecer contactos con gobiernos en base de la información que ha recibido sobre la tortura, que en algunos casos puede llevarlo a tomar medidas inmediatas contra gobiernos que se sospecha de practicar o tolerar tortura. Estas medidas inmediatas pueden ser un telegrama o una visita al país en cuestión, de forma confidencial o abiertamente movilizando la opinión pública.

Como el Fondo fue iniciado


El Fondo es administrado por el secretario general y su personal asistido por el Junta de Síndicos que comprende el presidente y cuatro vocales que tienen gran experiencia en el campo de los derechos humanos. Trabajan en su capacidad personal y todos vienen de uno de los cinco regiones reconocidos por la ONU. El Consejo está momentáneamente compuesto por expertos de Costa Rica, Jordania, Kenya, Los Países Bajos y Yugoslavia. Se reúnen una vez por año para estudiar los requerimientos de ayuda que se han expuesto durante el año y prestan sus consejos y recomendaciones al secretario general.

El Fondo obtiene la mayor parte de su dinero de los Estados miembros de la ONU que no tienen ninguna obligación (“Fondo Voluntario”) de contribuir. Afortunadamente, cada año un número mayor de gobiernos deciden contribuir al Fondo, y frecuentemente con regularidad, lo que hace posible para el Consejo planificar el futuro y comprometerse a largo plazo. También se ha recibido contribuciones de personas privadas y organizaciones no-gubernamentales. En los Países Bajos fue abierta una cuenta bancaria bajo los auspicios de la rama holandesa de la Comisión Internacional de Juristas.

Una gran red, muchos proyectos

Desde su creación la Junta de Síndicos ha colaborado con más de 50 organizaciones que en total han aportado alrededor de 100 proyectos y sub-proyectos para la implementación en 40 países. Estos proyectos pertenecen esencialmente a los siguientes campos: psicoterapia, atención médica, rehabilitación social y enseñanza de profesionales (médicos, psicólogos, psicoterapeutas, personal paramédico, asistentes sociales, etc.) e investigación científica para el tratamiento especializado de las víctimas de la tortura. Aparte de ayudar a las víctimas de la tortura el Fondo ha podido ayudar a familiares de víctimas que también sufren psicológicamente, económicamente y socialmente. Además el Fondo ha asistido en el desarrollo y aplicación de tratamientos adecuados para las víctimas de la tortura.

El Fondo apoya una variedad de proyectos. Algunos de ellos son clínicas o centros bastante grandes para asesoramiento, grupos de estudios de sociopsicología como los que hay en Copenhague, Londres, París y Toronto donde se registra cientos de nuevos casos de sobrevivientes de la tortura cada año. Basado en un requerimiento anual de ayuda cada uno de ellos reciben miles de US$ del Fondo. Un nuevo proyecto médico fue iniciado en Berlín donde se espera que habrá un gran número de sobrevivientes de la tortura en el futuro, debido al desarrollo en Europa Oriental y la anterior Unión Soviética.

La gran mayoría de los proyectos son relativamente pequeños en tamaño, pero no por eso menos importantes. Muchos de ellos son establecidos en países, donde la tortura, hace poco, formaba parte de la política de los gobiernos. Países como Argentina, Chile, Uruguay y países donde la tortura se practica con o sin el consentimiento del gobierno. A veces estos proyectos se llevan a cabo bajo las peores condiciones, en zonas apartadas y con demasiados pacientes y poco personal que a menudo son voluntarios. La correspondencia con estos proyectos es frecuentemente dificultosa.

Una mano de ayuda de la Cruz Roja

En el transcurso de los años La Junta de Síndicos y la Organización de las Naciones Unidas han desarrollado métodos de encomendar buena fides a los nuevos proyectos, de evaluar presupuestos, de establecer condiciones con respecto a la calidad de la ayuda, de contabilidad y de hacer informes. El Consejo estudia detenidamente los informes sobre las finanzas y actividades de los proyectos antes de aconsejar al secretario general que acepte las contribuciones. En algunos, pero pocos casos se han suspendido las contribuciones regulares porque los informes no eran satisfactorios o porque no hubo informes alguno.

Los siguientes números darán una impresión de las actividades del Fondo. Desde que el Fondo comenzó sus actividades en 1983, se asignaron 200 contribuciones para proyectos con un total de más de 6 millones US$. En el año 1991 se hicieron más de 70 contribuciones a 60 proyectos equivalentes a más de 2 millones US$. Todos los años los Estados miembros de La Organización de las Naciones Unidas tienen que decidir sobre sus contribuciones voluntarias al Fondo. Afortunadamente es aportado un flujo de dinero constante al Fondo.

The Liga de Sociedades de la Cruz Roja y Sociedades de la Media Luna Roja en Ginebra, Suiza, han propuesto que un manual de ayuda para los que solicitan asilo y manual de enseñanza
El fondo ha contribuido a la publicación.

"En sueco, por favor"*

Una mujer sudamericana refugiada en Suecia que fue expuesta a tortura sexual no había tenido el valor para ir a ver a un ginecólogo diez años después de esta experiencia. Tuvo dolores internos y su médico la mandó a una ginecóloga que estaba dispuesta a escuchar la historia terrible de la mujer. No obstante, cuando la mujer llegó al consultorio simplemente no pudo hablar aunque sabía bien el sueco. La especialista le dijo: "Cuénteme en español!". La mujer comenzó a hablar y continuó por mucho tiempo. Cuando se les iban las palabras la doctora le dijo amablemente: "Ahora, me puede decir en sueco, lo siento no entiendo el español". La ginecóloga había comprendido que la mujer primero necesitaba expresar toda la historia en su lengua materna. Esto creó una atmósfera de simpatía y comprensión que le permitió a la mujer volver a contar su historia en sueco y de esa forma sacar al descubierto su experiencia traumática.

**Trabajo práctico en Inglaterra**

Uno de los proyectos más grandes es el apoyo a Medical Foundation for the Care of Victims of Torture [Fundación Médica para el Cuidado de las Víctimas de la Tortura] en Londres, que es dirigida por la señora Helen Bamber y Dr. Rodriguez. La Fundación no recibe fondos del gobierno Británico y por lo tanto tiene que encontrar fondos de donde pueda. Muchos de los clientes de la Fundación son víctimas indirectas. Esto quiere decir, personas que han sido forzadas a ver cómo los torturaban a familiares 6 amigos.

En un período de 5 años la fundación trató a entre 2.500 a 3.000 víctimas. Estas víctimas vienen de todo el mundo, de más de 40 países los cuales son bien conocidos. El trabajo de la señora Bamber en este centro consiste en documentar los alegatos de los que solicitan asilo y supervisar al personal voluntario, psiquiatras, médicos, intérpretes etc. El centro ofrece terapia de familia y de parejas donde una de las personas ha sido expuesta a tortura sexual.

Finalmente existe la necesidad de investigación científica para descubrir porque hay personas que se dedican a la tortura y que usan la creatividad humana para destruir a otros.

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* Board of Trustees
El Fondo de La ONU para Víctimas de la Tortura
Palais des Nations
Ch-1211 Geneva 10, Switzerland

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**European compensated for inhuman treatment**

French citizen was inhumanely treated and kept in prison 5½ years, then acquitted, now compensated through the European Court of Human Rights, Strasbourg

The European Court of Human Rights has found France guilty of inhuman and degrading treatment during police custody of a French citizen on Corsica. Thus it was a violation of Article 3 of the European Convention of Human Rights of 1950. For this and because he was in detention – unjustified – from 1983 to 1988, he was awarded 1 million FF (about US$ 200,000) damages, plus 300,000 FF for costs and expenses.

Mr. Felix Tomasi, a shopkeeper and accountant, was arrested by the police in Bastia on the French island of Corsica on 23 March 1983, suspected of involvement in a murder and attempted murder. It was in an attack on the rest centre of the Foreign Legion at Sorbo-Ocagno (Haut-Corse), carried out on 11 February 1982 by the FLNC (Corsican National Liberation Front), whereby shots were fired at two guards, of whom one died and the other was wounded.

Tomasi was eventually acquitted by the Gironde Assize Court in 1988, and the Compensation Board at the Court of Cassation awarded him 300,000 FF in 1991. During his period of detention on remand he made 23 applications for bail, all of which were refused.

The applicant complained of ill-treatment to the investigating judge who heard him at the end of his period of police custody; he then filed a criminal complaint and claimed damages in 1983. He was examined by several medical experts, who found various minor injuries. He was subsequently interviewed by the investigating judge in June/July 1983. In 1985, the French Court of Cassation declared void all the previous measures of investigation on the grounds that they had been carried out by a judge without jurisdiction.

The application to the European Human Rights Commission in Strasbourg was lodged in March 1987. The Court of Human Rights to which the case was referred held unanimously that there had been violations of the Convention on three points: Article 5 (length of detention on remand), Article 3 (treatment inflicted during police custody), and Article 6 (length of proceedings for the examination of a complaint alleging ill-treatment). The judgment was announced in August 1992.

The Court based its view on several considerations: no one claimed that marks noted on the applicant's body could have dated from a period prior to his being taken into custody or could have originated in an act carried out by the applicant against himself or again as a result of an escape attempt – the applicant had drawn attention to the marks on his body at his first appearance before the investigating judge. Four different doctors examined the accused in the days following the police custody; their certificates contained precise and concurring observations and indicated dates for occurrence of the injuries which corresponded to the period spent in police custody.

Relying on the Ireland v. the United Kingdom judgment of 18 January 1978 concerning British ill-treatment of IRA terrorist suspects in Northern Ireland, the applicant maintained that the blows which he had received constituted inhuman and degrading treatment. They had not only caused him intense physical and mental suffering; they had also aroused in him feelings of fear, anguish and inferiority capable of humiliating him and breaking his physical or moral resistance.

The Court found it sufficient to observe that the medical certificates and reports, drawn up in total independence by medical practitioners, attest to the large number of blows inflicted on Mr Tomasi and their intensity; these are two elements which are sufficiently serious to render such treatment inhuman and degrading. The requirements of the investigation and the undeniable difficulties inherent in the fight against crime, particularly with regard to terrorism (in this case in Corsica), could not result in limits being placed on the protection to be afforded in respect of the physical integrity of individuals.
Impunity in a “democratic” regime

Only little improvement in Panama after the US invasion

By
Dr. Anays Amado C.*

Anyone who listened to the arguments given by the US government and Army with respect to the invasion of Panama on 20 December 1989, and hears the US-installed government of Panama talk about democracy, might believe that there had been a great deal of improvement in the situation of human rights and impunity in the country. However, it is not so. Behind an apparent improvement, there is a real worsening of the situation. The invasion itself was the most serious act of impunity suffered by the Panamanian society as a whole.

According to our vision of human rights, democracy is not limited to the possibility of voting in an election, or the enjoyment of civil and political rights. Democracy, as well as human rights, is a more integral concept that implies the participation of people in decision-taking concerning political, economic, and social issues. Hence, we cannot talk about true democracy in the midst of injustice, impunity, misery, and hunger which abide in Panama.

During the military government, installed in October 1968, impunity was a fact. We can mention drug trafficking, money laundering, repression in 1988 and 1989, during Noriega’s rule. A horrendous crime occurred in 1985 when, on 13 September, Dr. Hugo Spadafora was assassinated; his decapitated body showed signs of torture.

Dr. Spadafora was known as the guerrilla fighter doctor because of his participation with the Frente Sandinista for National Liberation (FSLN), an aim of which was to overthrow the Nicaraguan dictator Anastasio Somoza. Later, he was involved in secret activities and participated with the contras in Nicaragua against the Sandinistas.

Due to this, it was thought that he could have been a victim of several national and international groups. In Panama, he accused General Noriega of violating human rights, and of trafficking drugs and arms to Central America.

According to witnesses who were travelling with him by bus from Costa Rica to Panama, Dr. Spadafora was taken from the bus by two well-known members of the Panamanian Defence Forces. The authorities initiated an investigation that lasted 5 months. They concluded that there was not enough evidence to lay a charge against the suspects, who were then definitively freed of guilt.

Spadafora’s relatives denounced the case internationally and gave new evidence, but the case was not reopened, despite this.

In 1992, the case was reopened and a special attorney reviewed it with the purpose of bringing the suspected murderers to trial. This trial is about to take place, but, curiously, the alleged intellectual author of the crime, General Manuel A. Noriega, is absent. Noriega is in jail in the US, sentenced for drug trafficking. Even though General Noriega has asked to travel to Panama for this trial, the authorities have not officially made the request to the US. What is hidden behind all this? It does not seem that serious efforts are being made to clarify the crime; on the contrary, one can observe an attempt to cover up evidence, on the part both of the previous military and of the actual government, with its democracy “made in the USA”.

The invasion was an act of impunity against a defenceless population for reasons that only concerned the US government. Thousands of Panamanians were killed or disappeared, others were arrested by the US army and are still in Panamanian jails without trial, some even without charges. Thousands of children lost their parents, brothers and sisters, their houses, and all they possessed. Despite this, neither the US nor the Panamanian governments have shown any interest in these people. The US government refuses to pay any compensation to the families of the victims. Most of the people killed have not yet been found; more than 300 cadavers have been exhumed from mass graves, but exhumations have not continued because of the high costs for the families of the victims. And who will judge the war criminals? Who will investigate the numbers of casualties and the circumstances in which they occurred?

Once again we see that rich and powerful nations seem to have licence to commit all kinds of crimes with impunity against poor, defenceless nations.

Even though the so-called “Operation Just Cause” is said to have restored democracy to Panama, the reality is different. Just because the Panamanian army was destroyed and replaced by the US army, it does not mean that democracy exists. Today Panama is the kingdom of impunity, arbitrariness, and intolerance. We see this when popular organizations are repressed when demonstrating, when forced evictions occur even with the participation of members of the US army.

It is mandatory for every state to preserve the lives of its citizens, but in Panama the causes of many deaths have not been clarified, and some deaths have not even been investigated. In this context, there is the case of young Maria Calonge Ibarra, who was shot by the police on 7 July 1992 while walking around a demonstration in the city of Colon. Anibal Ponce lost an eye as a consequence of bird shots from the police.

On 28 May 1993, during a nationwide demonstration by indigenous groups, demanding the demarcation of their regions, the police repressed the demonstrators, wounding some and arresting several. A young Indian man, Saturnino Aguirre Rodriguez, was wounded; he died two days later at the hospital in the province of Chiriqui. The authorities tried to hide the real cause of death, and declared that it was due to tuberculosis, but the autopsy showed that he died of haemorrhagic shock, due to a penetrating wound in the left thorax. The police denied all responsibility in this case and no investigations have been carried out. The Indians, with the collaboration of our Commission, created a commission to investigate the events.

On 4 February 1993, during a police operation, an 11-year-old boy, David Baipta, was shot by the police. The authorities stated only that the police had been negligent.

Top government officials have been involved in persecution of members of opposite parties and their relatives, and against of who dared to criticize them.

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In this sense, journalists have become the target of all kinds of aggression. The Mayor of the capital district, Mrs. Mayín Correa, related to the US authorities, has been the protagonist of a series of violent episodes against two female journalists. Her bodyguards attempted to kill Italo Antinori, a lawyer who had accused her of using state funds to finance a political party. Yet, she has not been punished, and President Guillermo Endara congratulated her for beating the journalists and sent her roses. The President has stated that sometimes people have to take justice into their own hands.

A union of journalists, the Union of Persecuted Journalists in Panama (UPPP), was recently created to counteract judicial terrorism and persecution. About 200 journalists face 300 lawsuits for slander and insult, and working against the internal security of the State; in addition they face obstacles in their work in the mass media.

There are many other examples that characterize this empire of impunity in Panama. We have just mentioned a few cases that contradict the false statements of those who, in complicity with the northern empire, favoured an invasion that keeps us submerged in conditions of hunger, poverty, injustice, and impunity.

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* Patologist
Secretary National Commission for Human Rights in Panama (CONADEHUPA)

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**Impunidad en un regimen “democrático”**

La situación en Panamá después de la invasión de EE.UU.

**Por**

**Dra. Anays Amado C.*

Cualquier persona que escuchase las razones esgrimidas por el gobierno y ejército norteamericano para invadir a Panamá el 20 de diciembre de 1989, y oyese pregonar la democracia a los actuales gobiernantes, impuestos por los Estados Unidos durante la invasión, creería que la situación de los derechos humanos y la impunidad en nuestro país ha evidenciado una tremenda mejoría. Sin embargo, no es así. Tras la aparente mejoría se observa un verdadero empeoramiento de la situación de los derechos humanos y la impunidad.

El mismo hecho de la invasión se constituye en el acto impune más grave que ha sufrido la sociedad panameña en su conjunto.

Enmarcada en nuestra visión de los Derechos Humanos, la democracia no se limita a la posibilidad de ejercer el derecho al voto, o el gozar del ejercicio de los derechos civiles y políticos. La democracia, al igual que los derechos humanos, es un concepto más integral que implica la participación popular en la toma de decisiones que afecten la vida nacional desde el punto de vista político, económico y social. Por tanto, no podemos hablar de una verdadera democracia en medio de la injusticia, la impunidad, la miseria y el hambre que se entronizan en nuestro país.

Durante el gobierno militar que se inició en octubre de 1968, se dieron hechos que evidencian la presencia de impunidad de las acciones de los gobiernantes. Así podemos mencionar el tráfico de drogas, la represión que se dio en los últimos años, 88 y 89 durante el mandato de Noriega.

Un hecho horroroso se destaca en 1985, cuando el 13 de septiembre de ese año el Dr. Hugo Spadafora es asesinado, encontrándose desecado y con visibles huellas de tortura.

El Dr. Hugo Spadafora fue conocido en Panamá como el “médico guerrillero” por su participación en Nicaragua en la lucha del Frente Sandinista de Liberación Nacional (FSLN) contra la dictadura de Anastasio Somoza. Estuvo involucrado en una serie de actividades secretas posteriormente, incluso se alió a Edén Pastora, ex-comandante sandinista en actividades contrarevolucionarias en Nicaragua. Es precisamente por estas actividades, algunas no muy conocidas, que el Dr. Spadafora se constituyó en un posible víctima de diversos sectores a nivel nacional e internacionales. En Panamá, había acusado al General Noriega de violaciones a los Derechos Humanos y de tráfico de armas a Centroamérica.

Según testimonios que viajaban en el bus que lo transportaba en un viaje de Costa Rica a Panamá la noche de su muerte, el Dr. Spadafora fue bajado del bus por miembros de las hoy extintas fuerzas de defensa, que fueron identificados. Sin embargo, el gobierno empeza una investigación que dura 5 meses, y que se caracterizó por la injerencia de las fuerzas de defensa, y se llega a la conclusión de que no había evidencia suficiente por inculpar a los presuntos culpables, y éstos son sobreeidos definitivamente.

Los familiares del Dr. Spadafora han denunciado a nivel internacional, aportan nuevas pruebas, pero a pesar de ello, no logran que se reabra el caso.

Posterior a la invasión, en 1992, se nombra un fiscal especial encargado del caso con el fin de llevar a juicio a los presuntos asesinos. Según infor-

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**Cuerpo del texto en español.**

Por **Dra. Anays Amado C.**

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mes, parece que no hay pruebas contundentes, y lo que es peor, ya pronto se hará el llamamiento a juicio y el supuesto autor intelectual del crimen, el Gral. Manuel A. Noriega está ausente, cumpliendo condena en los Estados Unidos por narcotráfico. A pesar de que Noriega ha solicitado que se le traiga a Panamá manifestando su interés por declarar en el juicio, no se han hecho los trámites legales para tal fin. ¿Que se esconde tras todo esto? No parece que se estén haciendo esfuerzos serios para esclarecer el crimen, por el contrario, lo que se observa es un encubrimiento, tanto del anterior gobierno militar como el actual gobierno de la democracia "made in USA".

La invasión fue un flagrante hecho impune perpetrado contra un pueblo indefenso, por motivaciones que en realidad sólo interesaban al gobierno de EE.UU. Miles de panameños muertos y desaparecidos, otros tantos detenidos por el ejército de EE.UU. y que aún se encuentran presos en cárcel sin juicio, algunos, sin cargo. Miles de niños que perdieron sus padres, hermanos, sus casas y todo lo que tenían. A pesar de ello, ni el gobierno panameño ni el de EE.UU. han mostrado ningún interés hacia estas víctimas. El gobierno de EE.UU. se niega a indemnizar a familiares de las víctimas. Muchos de los muertos aún no han aparecido; se han exhumado más de 300 cadáveres de fosas comunales, sin embargo, las exhumaciones no han podido continuar por el alto costo y sufrimiento de los familiares de los caídos. ¿Y quién investigará el número de muertes y las circunstancias en las que ocurrieron las muertes? lo que es igualmente importante. Una vez más vemos cómo las naciones ricas y poderosas parecen tener licencia para actuar impunemente contra pueblos y naciones indefensas y pobres.

A pesar de que la llamada "Causa Justa" dice haber restaurado la democracia en Panamá, la realidad es otra. No es cierto que exista una democracia en Panamá por el solo hecho de haber destruido el ejército panameño para remplazarlo por el ejército de EE.UU. Hoy en Panamá reina la impunidad, la arbitrariedad y la intolerancia. Lo vemos en la represión al movimiento popular cuando se manifiesta por sus justas reivindicaciones; en los desalojos con fuerza, en ocasiones incluso con la participación de miembros del ejército de EE.UU.

Es un deber del Estado proteger la vida y seguridad de los asociados, más en Panamá se han dado múltiples casos de muertes no aclaradas y algunas que siquiera han sido investigadas. En este contexto queremos exponer el caso de la joven Marla Calonge Ibarra quien en el 7 de julio de 1992 murió víctima de un disparo de balas por parte de la policía nacional, en los momentos en que caminaba alrededor de unos manifestantes en la ciudad de Colón. Asimismo Antíbal Ponce perdió un ojo a consecuencia de disparos de perdigones por parte de la policía.

Recientemente, el 28 de mayo de 1993, durante una manifestación a nivel nacional, de grupos indígenas que reclamaban la demarcación de sus comarcas, se dio una fuerte represión contra los manifestantes, resultando algunos heridos, otros fueron detenidos y ocurrió la muerte del indígena Saturnino Aguirre Rodríguez, horas más tarde en un hospital de la occidental provincia de Chiriquí. En este caso se trató de ocultar la verdadera causa de muerte, diciendo que había fallecido de tuberculosis, pero el estudio de necropsia reveló que la causa de muerte fue un shock hemorrágico como consecuencia de una herida en el hemitórax izquierdo. La policía niega su responsabilidad en el caso y no se han hecho investigaciones y mucho menos detenciones. Los propios indígenas han conformado una comisión investigadora con participación de nuestra Comisión para tratar de que se haga justicia.

El 4 de febrero de 1993, durante un operativo policial, el menor de 11 años

David Batista fue muerto por un disparo de balas de la policía. Las autoridades se limitaron a decir que se trataba de la negligencia de un policía y allí terminó todo.

Altos funcionarios del gobierno se han visto involucrados en persecuciones contra miembros de la oposición y sus familiares, y contra todo aquel que se atreve a expresar críticas contra ellos. En ese sentido, los periodistas se han convertido en el blanco de toda clase de represiones.

La separada Alcaldesa del distrito capital, Sra. Mayra Correa, elemento vinculado al gobierno de EE.UU., ha protagonizado una serie de actos violentos contra dos periodistas; La Directora de la Revista Momento y una periodista de T.V.; sus guardaespalda llevaron a cabo un atentado contra el Lic. Italo Antinori, un abogado que presentó denuncia en su contra por mal uso de fondos del Estado para favorecer a un partido político. Ante esto no se ha logrado el castigo para su actividad delictiva, es más, el Sr. Presidente Endara la felicitó y le envió un ramo de rosas como apoyo y premio por la golpiza que le dio a la periodista.

Recientemente se creó la UPPP [Unión de Periodistas Perseguidos en Panamá] en respuesta al terrorismo y persecución judicial. Alrededor de 200 periodistas enfrentan unas 300 denuncias por calumnia e injuria, atentar contra la seguridad interna del Estado y se les han impuesto limitaciones para trabajar en los medios de comunicación social.

Existen muchos otros ejemplos que caracterizan este imperio de impunidad en que se ha convertido el Panamá de hoy. Sólo hemos expuesto algunos ejemplos que ilustran la falsedad de la retórica de todos aquellos que en complicidad con el imperio del Norte, favorecieron una invasión que nos mantiene sumidos en esta situación en donde el hambre, la pobreza, la injusticia y la impunidad imperan.

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* Patología Oncológica
Secretaría de Actas
Comisión Nacional de Derechos Humanos en Panamá
A hangman’s story
Gentleman and officer; torturer and killer; Alfredo Astiz from Argentina

One day in the autumn of 1977 an intelligent and pleasant young man, by name Gustavo Niño, approached the Mothers at Plaza de Mayo in Buenos Aires, Argentina. He said that his brother had disappeared. The Mothers provided him with some information and he volunteered to help their organization.

In October of the same year the big Argentine newspaper La Prensa had carried a headline with the message of the Mothers: “We do not ask for anything more than the truth”, recalling what the President of the Republic, Admiral Jorge Videla, had promised earlier during a stay in the United States: “Nobody who tells the truth will suffer reprisals.”

The organization of the Mothers decided to put a full-page advertisement in the paper on 10 December – Human Rights Day – calling for “a Christmas of Peace”. Several people prepared the advertisement in the Santa Cruz Church in central Buenos Aires, where a small room was put at the disposal of the Mothers. Others called in and handed their contributions, including Gustavo Niño. A few days later nine people were arrested as soon as they left the church. They have not been heard of since.

It was a devastating blow to the organization of the Mothers; they had in no way screened the volunteers, and had not found out that Niño, who also disappeared, didn’t actually have a brother. It was only some years later that surviving members of the small group realized that Gustavo Niño’s real name was Alfredo Astiz. Posing as he did, he could describe the people who had gathered in the church to the authorities.

This man became notorious in the whole world when he was taken prisoner by the British navy during the brief Falklands War/Guerra de las Islas Malvinas in 1982. He was captured after the unsuccessful Argentine attack on the small island of South Georgia, belonging to the Falkland Islands/Islas Malvinas. A Spanish newspaper brought the news that Astiz had for years belonged to the Grupo de Tareas (GT), the task force of ESMA, the Mechanics School of the Argentine Navy in Buenos Aires.

He was in charge of the more important kidnappings and torture, and according to various sources there was no mean deed, no atrocity, no kind of monstrous behaviour, from rape to selling of children and taking advantage of murdered peoples’ belongings that were unknown to Astiz. The world reacted because it was assumed that he was responsible for the deaths of two French nuns, Sisters Alice Domon and Leonie Renée Duquet, and a young Swedish girl, Dagmar Hugelin, who was arrested by mistake.

The Swedish and French governments both sought permission from Britain to question Astiz. This was not granted because Britain adhered to the (Red Cross) Geneva Convention III of 1949, according to which prisoners of war are obliged to give only their name, rank, and number. (The British were probably anxious about a missing British pilot in the war). For whatever reason, Lieutenant Astiz, together with hundreds of other Argentine prisoners of war, was duly exchanged for the (few) British prisoners in Argentine hands.

On 16 March 1990, eight years after the war, a French court found Alfredo Astiz, now Captain in the Argentine navy, guilty of illegal arrest, torture, and kidnapping, which resulted in “the involuntary and definite disappearance” of the two French nuns, and sentenced him to life imprisonment in absentia.

For legal reasons Astiz could not stand trial in his home country according to the Argentine law on due obedience, which exempts members of the military and police forces in Argentina from responsibility for crimes they were ordered to carry out. (This was also the excuse used by the Nazi generals and others during the Nuremberg Trial after World War II). Though the sentence has no actual effect, it constitutes a moral victory in the struggle against impunity granted to human rights violators. Today Astiz is still an officer in the Argentine navy.

La historia de un verdugo
Caballero y oficial; torturador y asesino: Alfredo Astiz, de Argentina

Un día del otoño de 1977, un joven intelectual y agradable, de nombre Gustavo Niño, se acercó a las Madres de la Plaza de Mayo en Buenos Aires, Argentina. Dijo que su hermano había desaparecido. Las Madres le facilitaron al señor informaciones y él se ofreció para trabajar como voluntario para la organización.

En octubre del mismo año el prestigioso diario argentino La Prensa publicó en grandes titulares el siguiente mensaje de las Madres: “No pedimos nada más que la verdad”, recordando la promesa que había hecho con anterioridad el Presidente de la República, almirante Jorge Videla, durante una visita a Estados Unidos: “Ninguno de los que digan la verdad sufrirán represalias”.

Las Madres decidieron insertar un anuncio de página entera en el diario del 10 de diciembre -Día de los Derechos Humanos- haciendo un llamamiento a “unas Navidades de Paz”. Varias personas estuvieron preparando el anuncio en la iglesia de Santa Cruz, ubicada en el centro de Buenos Aires, en la que una pequeña habitación había sido puesta a disposición de las Madres. Otras personas, entre ellas Gustavo Niño, iban y venían para entregar sus contribuciones. Algunos días después nueve personas fueron arrestadas al salir de la iglesia. No se ha vuelto a saber de ellas.

Fue un golpe devastador a la organización de las Madres; no habían contado de modo alguno a los voluntarios, por lo que no habían averiguado que Niño, la persona desaparecida, no tenía ningún hermano. No fue hasta varios
Años después que los restantes miembros del pequeño grupo supieron que el nombre verdadero de Gustavo Malvinas era Alfredo Astiz, Haciéndose pasar por otro pudo delatar al grupo que se reunía en la iglesia.

Este hombre se hizo conocido en todo el mundo cuando cayó prisionero de la armada británica durante la breve Guerra de las Islas Malvinas en 1982. Fue capturado tras el frustrado asalto argentino al archipiélago Georgias del Sur que pertenece a las Islas Malvinas. Un periódico español publicó la noticia de que Astiz durante años había formado parte del Grupo de Ta­reas (GT), de ESMA, Escuela Mecánica de la Armada argentina, en Buenos Aires.

Astiz estuvo a cargo de los secuestros importantes y de la tortura, y según varias fuentes no había acto vil, atrocidad o comportamiento monstruoso que no hubiera perpetrado Astiz, desde la violación hasta la venta de niños y aprovechamiento de los bienes de personas asesinadas. El mundo reaccionó porque presuntamente él era el responsable de la muerte de dos monjas francesas, sor Alice Domon y sor Leonie Renée Duquet, y de una joven sueca, Dagmar Hagelin, que fue arrestada por error.

Los gobiernos sueco y francés solicitaron permiso a las autoridades británi­cas para interrogar a Astiz. No les fue concedido porque Gran Bretaña se atuvo a la Convención de Ginebra III de 1949 (Cruz Roja), conforme a la cual los prisioneros de guerra solamente están obligados a informar su nombre, rango y número. (A los británicos probablemente les preocupaba un piloto británico desaparecido durante la guerra). Sea cual fuere la razón, el teniente Astiz, junto con cientos de otros prisioneros de guerra argentinos, fue canjeado debidamente por los (pocos) prisioneros británicos en poder de los argentinos.

El 16 de marzo de 1990, ocho años después de la guerra, un tribunal francés declaró culpable a Astiz -entonces capitán de la armada argentina- de arresto ilegal, de tortura y del secuestro que causó la “desaparición involuntaria y definitiva” de las dos monjas francesas, condenándolo en ausencia a reclu­sión perpetua.

Por razones legales Astiz no pudo ser enjuiciado conforme a la ley argentina de debido obediencia que exime de responsabilidad a los miembros de las fuerzas militares y policiales argentinas que habían perpetrado crímenes por ór­denes de sus superiores. (Esta también fue la excusa a que recurrieron los generales nazistas y otros durante los Procesos de Nuremberg después de la Segunda Guerra Mundial!) Si bien la sentencia no tiene efecto real, supone un triunfo moral en la lucha contra la impunidad de que gozan los violadores de los derechos humanos. En la actualidad, Astiz sigue siendo oficial de la armada argentina.

H.D.

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**Three Turks compensated in friendly settlements**

The European Human Rights Commission in action in case on ill-treatment

Three Turkish citizens have been awarded compensation due to a friendly settlement obtained through the protection given in the European Convention on Human Rights. They had been ill-treated by Turkish police.

On the international Human Rights Day last year, 10 December 1992, the European Commission based in Strasbourg, France noted the friendly settlement in the three cases filed with the Commission in 1990. The Turkish Government agreed to pay each of the applicants the equivalent of 115,000 FF, a sum amounting to 173,765,000 Turkish Liras after they had complained of violation of Article 3 of the European Convention on Human Rights of 1950, because they were subjected to ill-treatment by the police during custody.

They also complained that they were convicted for their political opinions and alleged violations of Articles 9, 10, and 11 of the Convention.

Finally, they alleged that the court proceedings before the Turkish State Security Court which convicted them did not afford them the guarantees of Article 6 paras. 1 and 3 of the Convention.

The first applicant, Nesrin Hazar, born in 1953, is a doctor; the second, Gür Hazar, is born in 1954, married to the former, and a journalist. The third applicant, Rüştü Açık, born in 1947, is an accountant. All live in Izmir.

On 7 September 1987, the applicants were taken into custody at the Izmir Security Department by the Izmir police, accused of being members of the Communist Party of Turkey. They were held incommunicado and were questioned by the police until 20 September 1987.

In a judgment dated 29 November 1988, the Izmir State Security Court sentenced the applicants to four years and two months imprisonment. The Court of Cassation upheld this judgment on 10 May 1989.

The applicants were later conditionally released. The European Commission, which contacted the parties to explore the possibilities of reaching a friendly settlement negotiated with the three Turks, further observed that on 12 April 1991 Article 141 of the Turkish Penal Code under which the applicants had been convicted was abrogated.

This was the first case in which Turkish citizens obtained compensation for ill-treatment, not to say torture, through the European Human Rights safeguard mechanisms in Strasbourg.

H.D.
In the late 1970s and early 1980s, psychotherapeutic assistance to ex-detainees was usually set up through individual contacts between progressive lawyers and psychologists, and then for a while through small detainee treatment groups which formed. These groups drew on input from RCT [Rehabilitation and Research Centre for Torture Victims] in Denmark and from related professional literature for their approach to psychotherapy with torture survivors.

With the widespread repression in the mid-1980s, services for victims of state repression were coordinated under the umbrella of the Emergency Services Groups (ESGs), which were set up in consultation with community and mass organisations. The ESGs sought to provide both first aid training and counselling/medical services. These were essentially volunteer-based programmes with minimal employed staff, and they attempted to provide an integrated medical and counselling service.

The approach that was developed within ESG services has been one of a “once-off” intervention, based on the premise that the majority of people seen at the clinics would not return for long-term follow-up. In many cases people would come straight out of detention and plunge straight back into intense political activity, and the role of the ESG service was seen as one of facilitating people’s adjustment to their extremely stressful environment.

A certain number of follow-up appointments were made, but in those cases where longer-term therapeutic work was done, it was often incorporated quietly into the work setting of individual ESG professionals. In some cases therapists saw activists in their own homes, or in “safe” venues.

The role of ESG was indivisible from the political struggles taking place in South Africa at this period. At the same time, it was imperative to preserve the operations of ESG, when organisations were being banned arbitrarily and activists were in danger of arrest if they attempted to use state health facilities. A broad policy was therefore followed by ESGs to keep a low profile so that they could continue to offer services, and could maximise the safety of the users. ESG clinics were raided from time to time by the security police, but the organisation was by and large able to continue its work effectively. It was only in 1990 that this profile changed, when ESG took a leading role in campaigning for release and better conditions for political prisoners.

High levels of political repression

Because of the high levels of political repression in South Africa, the services also found themselves having to deal with families, friends and members of the community who were directly or indirectly affected by political detentions, imprisonment and harassment. For instance, activists who lived in constant fear of arrest or assassination would be on the run for months, never sleeping in the same place for more than one or two nights in a row. This frantic lifestyle created enormous stresses for many activists, particularly young adults and schoolchildren. Programmes also attempted to educate families and communities prophylactically about the effects of detention and how to cope in detention.

Another feature that appeared on a large scale in the late 1980s was the strategy of hunger strikes, utilised by South Africa’s political prisoners to secure their release. In many cases, the doctors who were responsible for the care of political prisoners were unable to respond to the ethical challenge posed by hunger strikes, and ex-detainees report incidences in which doctors threatened to withhold medical care for detainees until they began to take food, or the doctor tried to force the detainee to eat against his or her will. As a result of intervention by NAMDA [National Medical and Dental Association], SAHWCO [the South African Health Workers Congress], and MASA [Medical Association of South Africa], guidelines for the humane treatment of hunger strikers have been accepted by the South African prison authorities.

The majority of South African political prisoners have now been released under the agreement known as the Pretoria Minute. The services for support and reintegration of released political prisoners have formed the bulk of the work of ESGs during this period, and have laid emphasis on the preparation for reintegration into family and community. This has included the running of groups for family members and friends who were visiting prisoners on Robben Island prison before their release.

These groups were co-facilitated by progressive counsellors and ex-political prisoners and focused on family members’ expectations, hopes and concerns about the reintegration experience, and on effective ways to deal with common problems that might arise. Attempts were also made to reach prisoners on Robben Island for purposes of pre-release counselling, but these were repeatedly blocked by the prison authorities.

Group sessions

After release, group sessions were held with political prisoners, as part of the reintegration service. In these groups, normally lasting two to three hours, releasees explored their feelings about reintegration, and the issues about relationships with family, friends, community and organisations which concerned them. Again, counsellors and ex-political prisoners facilitated the discussions, and shared with releasees the experiences and issues which others had undergone, and the strategies which they had found useful in coping. The overall reaction of released political prisoners was very positive, because they pointed out that, although extensive political discussions were held in prison, very little of a personal or psychological nature was discussed.

In addition to groups, a self-help booklet was written in close collaboration with ex-political prisoners (please also see the review on page 27 in TORTURE 1/93). This booklet dealt mainly with common reintegration and
The ordeals of detainees have not been common symptoms, followed by concentration in South African prisons.

Unemployment, a critical shortage of resources and torture, as reflected in the psychological sequelae of detention and torture, as described in the above studies and in clinical experience, have fallen generally into the pictures of post-traumatic stress disorder, depression and anxiety reactions. Sleep disturbances have been the most common symptoms, followed by concentration and memory problems, recurrent and intrusive recollections, nightmares and irritability. Headaches were very common, but a wide range of psychosomatic symptoms were seen. Symptoms of anxiety and depression were common.

Continuous stress syndrome

The ordeals of detainees have not commonly ended with their release. Ongoing political harassment, re-detention, visits by vigilante groups who may threaten, assault or even kill the ex-detainee or family members, mean that stress is not reduced with release. In addition, this has often been exacerbated by the abnormal social situation into which he or she is released - high unemployment, a critical shortage of housing, spiralling crime rates, in addition to the ongoing political violence and repression. This has led psychologists to think in terms of a continuous stress syndrome rather than a post-traumatic stress syndrome. In this kind of profoundly unsettled lifestyle, chronic suspiciousness, deep feelings of hatred and anger, and severe depression are often part of the picture.

At the same time, it is extensively recognised that the effects of detention may affect families and friends as much as, if not more than, the detainees themselves. It is frequently women who are left with the material difficulties of maintaining the home while the activist son or husband is detained, and who themselves have to cope with feelings of fear, anger, despair, loneliness and uncertainty, frequently without any social support. Indeed, the system of repression in South Africa has aimed to break not only detainees' resistance, but the whole community's political will, through fear, intimidation and coercion. Clearly, this leaves a massive residue of emotional trauma for rehabilitative interventions to address.

Therapeutic assistance

Psychological interventions in South Africa have adapted and developed Somnier and Geneke's approach to psychotherapy for survivors of torture, evolving the approach in relation to the needs and situation in the country. The basic approach commonly includes a cognitively-oriented introduction, in which the details of the experience are explored; a more emotive phase, in which feelings can be expressed - albeit to a limited extent; and a focused, practical problem-solving stage. In the South African setting, given the political polarisation and the dangers faced by activists, political credibility has been essential to the establishment of trust and rapport - and, indeed, for contact and therapeutic work to take place at all. Political credibility has normally been derived from membership of progressive service organisations, and from the fact that mass-based or community organisations are the normal referral agents and are able to vouch for the service. A further necessary aspect of counselling in the South African context has been an introductory explanation in accessible language of what counselling and therapy are about - given that the concept may be alien on class or cultural grounds. With the programme for released political prisoners, a shift in the form of intervention has seen emphasis on group work and the development of media to assist adaptation of released prisoners.

The commonest stress symptoms noted in ex-political prisoners in the months immediately following release were tension and anxiety - and realistic fears for personal safety; concentration and memory problems, tiredness and headaches, difficulty in relaxing, depression, intrusive unpleasant memories, irritability and mood swings, problems with passivity and sleep disturbances, more or less in that order. Relationship problems were also very common, problems with partners being rated highest, and difficulties with partners next. Some prisoners were still suffering the effects of torture many years later. In situations where it seemed necessary, counsellors saw individual prisoners for short- or medium-term therapy to help to alleviate troublesome symptoms.

Physical symptoms are usually psychosomatic manifestations of stress, headache, or stomach pains, or musculoskeletal symptoms frequently related to an episode of assault or torture at the time of initial detention. Disturbance of vision in the absence of any objective ophthalmological disease is another relatively common but unexplained finding. On some occasions, release from detention or long-term imprisonment appears to be associated with physiological stress reactions such as transient disturbances of glucose metabolism, resulting in one political prisoner in the manifestation of transient diabetes mellitus for a period of a few weeks following release, or in the development of tuberculosis following release.
 Whilst in many ways the psychological symptomatology of recently released prisoners resembles that of the ex-detainee, there are crucial differences. Many of the ex-prisoner’s difficulties are linked to the difficult adaptations they have had to make after years of imprisonment, and these adaptations prove counterproductive once they are released. Some examples are persistence of the passivity which prison life engenders, and extreme cautiousness in unfamiliar situations. In some cases, compensatory relationships are entered into precipitously – some prisoners have rushed into marriage within three weeks of release. Emotional defences and reserve, necessary to protect the prisoner from the anguish of separation from all he or she holds dear, sometimes become entrenched to the point that family and partner relationships are impaired. Counselling needs to help prisoners to preserve the positive strengths and discipline of prison life while striking a balance by reducing defences that are interfering with everyday relationships.

**Prospects for the future?**

Health professionals concerned with the rehabilitation of South Africa’s victims of political repression have to take a broad view of the psychosocial needs of many thousands of South Africans today. Thousands of ex-detainees and political prisoners are suffering varying degrees of trauma as a result of the physical and psychological stress of their incarceration. Not only are these psychological in nature, but many released prisoners have physical sequelae of torture experienced while in detention. In addition, thousands of exiles are returning to a country still fundamentally permeated with racist attitudes and repressive practices. And there are thousands of South Africans who have been turned into internal refugees by an internal destabilisation that sows random brutality in communities now devastated by senseless attacks, killings, burnings, and destruction.

Under this scenario, the need for a coordinated response to the stress experienced by ordinary South Africans is of crucial importance. For many, the idea of establishing trauma centres, to address the need for physical and psychosocial rehabilitation, is one which offers the best opportunities for intervening. ESG services have committed themselves to integrating with the current programme of the National Coordinating Committee for Repatriation (NCCCR) to deal with the repatriation of exiles, and, in all likelihood, the networks now developing under the NCCR will bear the brunt of this rehabilitation work in the future. It remains to be seen whether the efforts of progressive South African health professionals can draw on the support and experience of the international community to take this effort further.

Moreover, there will be a time when the South African medical profession as a whole will have to re-examine its lacklustre record in preventing torture in South Africa’s prisons. Given the indisputable evidence of physical and psychological abuses on a wide scale in South Africa, it is urgent that the medical profession takes a clear stand on the protection of human rights in our country. Let us hope that that time arrives in time to assist the process of reconstruction that is going to mould the creation of a future democratic South Africa.

**Acknowledgement**

To the many brothers and sisters who sacrificed their freedom and, in many cases, their lives in the cause of struggling for justice, equality and democracy in our country.

This article is the third in a series of three articles from South Africa. The first one was printed in **TORTURE 2/93**, pp. 39-41.

**References**


*Consultant Editor, TORTURE*

NAMDA (National Medical and Dental Association)
P.O. Box 482
Salt River 7925
South Africa

# Child Guidance Clinic
University of Cape Town
Chapel Road
Rosebank 7700
Cape Town
South Africa

**TORTURE Volume 3, Number 3 1993**
Centre for torture victims in Cape Town
The need to heal Apartheid’s wounds

As South Africa enters the fourth year in its transition to democracy, unprecedented levels of violence engulf our bitterly divided nation. Train massacres on the Reef. Taxi wars on the Cape Flats. Civil war in Crossroads. Mass killings in rural Natal. All of these conflicts are the violent legacy of apartheid rule.

Since 1984, more that 13,000 people have died in political violence in South Africa. Last year alone, political violence claimed the lives of 3,499 people and left 5,685 injured. And there seems to be no end in sight to all this violence. Most analysts concur that, as the first democratic elections draw nearer, the levels of political violence will only escalate. Even the State President recently acknowledged that the government would be unable to bring violence under control until at least 1995, well after the country’s first non-racial elections.

The state health system in South Africa is in severe crisis – underfunded, overwhelmed, understaffed. While state health services are beginning to redress the inequalities in the provision of health care to historically disadvantaged black communities, no serious effort has been made yet to offer psychological, medical, and social assistance to victims of violence.

The responsibility, therefore, has fallen on the shoulders of non-governmental agencies such as the South African Health and Social Services Organisation (SAHSSO). SAHSSO is a non-racial nationwide health body whose activities embrace primary health care, women’s health, AIDS, trauma rehabilitation, and restructuring the current state health system. In the Western Cape, for instance, SAHSSO has responded to the need for a comprehensive rehabilitation programme for victims of violence and torture by setting up the Trauma Centre in order to service this region.

A team of experienced health care professionals
The trauma centre for victims of violence and torture, built on the principles of RCT, Copenhagen, was opened in Cape Town, South Africa, in June 1993. The Danish Government has supported it with R1.18 million.

The new health care facility is located in historic Cowley House, a 19th century monastery located in District Six which will be operated by members of SAHSSO.

Announcing the major donation in Cape Town were Mrs. Helle Degn, Danish Minister of Development Cooperation, Hon. Peter Bruckner, Danish Ambassador, Professor Ole Espersen, President of the International Rehabilitation Council for Torture Victims (IRCT), and Cheryl Carolus, ANC Health Department.

“Our country desperately needs peace. But we also need healing”, said Glenda Wildschut, chairperson of the centre’s management committee. “The Trauma Centre is a place for healing the wounds of the past, mending the social fabric torn by years of endemic violence, and preparing our people for a hopeful future.”

After years of working with former detainees, ex-political prisoners, and returned exiles, health workers in the Western Cape realized that there was a crying need for a comprehensive rehabilitation programme for victims of violence and torture survivors. The Trauma Centre’s aims are threefold:

1. Treatment: we offer counselling, medical advice, and social services to victims of politically motivated violence. Our services are multi-disciplinary, holistic, and aimed at empowering victims to gain control of their lives so that they become survivors.

2. Prevention: we train health professionals and non-professionals in helping people to cope with the psychological trauma resulting from acts of political violence.

3. Advocacy: we monitor violations of human rights in relation to their effect on physical and mental health”, says a press release from the centre.

The Trauma Centre will offer its services to people who have been traumatized by experiences of imprisonment, torture, detention, combat, exile, civil unrest, and other forms of political violence. The Trauma Centre operates on a non-sectarian, non-party-political basis.
The Trauma Centre is currently run by a team of experienced health care professionals and community workers from a wide range of backgrounds and with diverse skills. More than 40 psychiatrists, medical doctors, psychologists, nurses, social workers, physiotherapists, and community workers oversee the Trauma Centre on a volunteer basis.

In addition to this network of trained and experienced volunteers who have worked in the field of trauma rehabilitation for some years, the Trauma Centre will begin to hire a small core of full-time health care workers in order to provide counselling services in four key areas:

1) captivity and torture,
2) returned exiles,
3) urban violence, and
4) rural and farm violence.

Counselling may involve individual psychotherapy, group or family therapy, crisis interventions, and support group work.

Recognizing the importance of diverse therapeutic strategies — including indigenous healing methods and pastoral counselling — the Trauma Centre has hired an Anglican priest, Father Michael Lapsley, to serve as chaplain.

The role of the Anglican church: providing Cowley House

The Church of the Province of Southern Africa and Archbishop Desmond M. Tutu have joined SAHSSO as partners in making this unique health care project a reality. The Church has graciously agreed to allow SAHSSO to set up the Trauma Centre in historic Cowley House.

Cowley House has a long history in Cape Town. Built in 1898 by an order of Anglican priests — the Society of St. John the Evangelist — Cowley House served as a monastery for a handful of cloistered monks for more than 75 years. When the Cowley Fathers pulled out of South Africa in the late 1970s, they left their modest white monastery to the Anglican Church.

In the late 1970s, Cowley House served as a rest house for families of political prisoners visiting their loved ones on Robben Island. It provided safe shelter, food and transport to scores of families for nearly 14 years. And when political reforms began in February 1990, Cowley House then served as a reintegration centre for nearly 250 political prisoners released from Robben Island over an 18-month period.

Father Michael Lapsley gave the opening speech, which included the following:

"We bear in our bodies the signs of the old order, that is still with us. But by our very survival we are the signs of the new order."

"We are not called to forget the past. We are called to heal the past, to heal our memories lest they continue to haunt us and destroy us in the present."

"Survivors can help survivors. Many of us are survivors — survivors of what has been done to us and to the people we love. For some of us, the marks of state terrorism are visible for all to see."

"How could we have survived as a nation and as individuals if we had not been sustained by hope? Hope that one day apartheid would be killed and we would all live and build a land of peace and happiness."

"What time is it now in South Africa? Part of our problem is that the old order has not yet passed away and the new order has not yet been born."

A personal view from South Africa

The meeting to oppose the further indemnity bill and a general amnesty

By Father Michael Lapsley*

My own story is not exceptional. It is just one example of what has characterized life for millions of people throughout the whole region of Southern Africa. I wish to recount my own experience in order to illustrate the reasons why we must all oppose the South African regime's attempts to give itself indemnity or amnesty for its criminal and evil deeds.

If Mr De Klerk, President of South Africa, is to be believed, the new South Africa was born on 2 February 1990. At that time I was living in Zimbabwe as part of the community of African National Congress (ANC) exiles. About three years previously I was called in by the government of Zimbabwe to say that I was on a South African Government hit list. For the following three years I was supplied with armed police guards 24 hours a day. In the ANC in Zimbabwe I was chairperson of the education committee, responsible for the education of exiles from creche to university. I was also a chaplain of the ANC, concerned with the pastoral care of the exiled community and the mobilization of the religious community. My view was and is that Apartheid is an option for death carried out in the name of the Gospel of Life, which is why it is an issue of faith for religious people to say no to apartheid and yes to life and peace for all.

Three months after 2 February, two days before the first talks between the ANC and the government, on 28 April 1990, I received a letter bomb. It was posted registered mail from South Africa to my house in Harare and was hidden inside the pages of two religious magazines. Miraculously I survived, but I lost both hands and an eye.

In 1991 I visited South Africa for the first time in 15 years. In February 1992 I came back to live in South Africa. Before I could enter the country I was required to obtain indemnity. I was given indemnity. I am a priest, not a lawyer, I understood that they were forgiving me for their sins.

When I say that I am not filled with hatred or desire for revenge, people tell me that it is wonderful that I have forgiven them. How can I forgive those
who have not asked for my forgiveness?

I would like to meet the person who typed my name on a letter bomb. I would like to meet the person who assembled the bomb, carefully disguising it in a religious magazine. I would like to meet the person who gave the order that I should be killed. If they asked for my forgiveness, I would have to decide how to respond. We are told that this new indemnity law involves treating everyone equally, the ANC and the government alike. On the surface that looks fair. Is it fair that a man who commits rape should be treated exactly the same way as a woman who defends herself against rape?

As a community we are right to condemn abuses committed by the ANC in the course of a just struggle against what the world calls a crime against humanity.

However, to say that the crimes of the state and its agents are no worse than what was done by the ANC may be acceptable to some members of the white community, but God, history, the international community, and those who have been victims, will not absolve the regime so cheaply and easily.

Since I returned to South Africa, I find that opinions which are considered extreme and wild by much of the white community are taken for granted within the civilized community of nations. Whilst apologizing for apartheid, De Klerk said in the town of Winburg: "But that we were evil, malignant and mean - to that we say No!" - With all due respect I would like to tell Mr De Klerk today that until he and his supporters admit and repent of their evil, malignancy and meanness, they will never be free and it will haunt them even for generations to come. In Christian theology evil has to be confessed, repented of, and restitution has to be made to victims and communities. Revenge is not the Christian way. Justice is. Saying sorry for death and suffering and then staying in power is a contradiction in terms.

Today we want to send a very clear signal to the South African Government. You remain a morally illegitimate government in a morally illegitimate parliament. You do not have the power or moral right to forgive yourself for your own crimes. Any law you pass will be considered null and void.

Forgiveness yes, but not cheap forgiveness. Reconciliation yes, but not cheap reconciliation. When De Klerk spoke at Winburg, he also said that "in the long run the truth of history cannot be distorted or suppressed." I suspect that he may live to regret the truth of that statement.

It is interesting to observe that the National Indemnity Council will not only be in secret but will be advisory to the State President. Will the State President secretly indemnify himself for his own responsibilities for the actions of the security forces?

Who is going to appear before the National Indemnity Council? Perhaps the general who is still in his office who, according to the Supreme Court, supplied poison to kill anti-apartheid activists. Will the killers of Matthew Goniwe and David Webster also appear? And what of those who tortured thousands of our youth throughout the 1980s? Those who made the bomb which killed Bheki Mlangeni during the new South Africa? The ones who sent the letter bomb to kill Jenny Schoon and six-year-old Katryn in Angola, those who shot Joe Gqabi in Zimbabwe, the ones who came at one in the morning to Maserau and shot schoolchildren in their beds, and the one who murdered our sister Dulcie September in Paris or who sent a bomb inside a television that killed Tsitsi Chitiza in Harare? Maybe the entire State Security Council will be there accompanied by the rest of the cabinet, past and present, led by the State President, whispering for indemnity?

Let the truth be told, all of it. Without the whole truth, healing will never come for the oppressed or the oppresors. We cannot forgive and forget what they have not yet been willing to remember.

My sisters and brothers, when there is a legitimate government for the first time in our history, whether interim or final, it will have to decide at the level of legislation how healing will come to the nation.

However, we do need a national debate on how to bring about healing in the nation. It is a debate principally for the oppressed and for victims to engage in. There is of course at one level every reason logically to choose the path of hatred and revenge. The people must decide. They have no right to forgive themselves. Let God and the people decide after we are convinced that they have repented.

Before healing can take place, before we can decide what to do with those who have confessed and repented of their crimes against humanity, power must change hands. For religious peoples, our belief in the God-given dignity of all human beings requires that we continue the struggle for freedom and justice that will sow the seeds of peace.

No amnesty Now! We will decide!

* Chaplain of the Trauma Centre for Victims of Violence and Torture
Chaplain of the Anglican Student Federation of the Church of the Province of Southern Africa

PKISTAN

A seminar in Lahore on rehabilitation

The regional-Asian secretariat for the Rehabilitation of Survivors of Organized Violence and the Rehabilitation and Health Aid Centre for Torture Victims (RAHAT), Lahore, organized a two-day seminar in Lahore 29-30 May 1993.

Dr. Mahboob Mehdil, Islamabad, Pakistan, described various physical and psychological methods of torture and showed that both categories of torture can produce the same effects. Several doctors and psychologists described the situation in their countries: Nepal, Bangladesh, Afghanistan, etc.

Against Torture (VAT) coordinates the work of rehabilitation, documentation, and research. RAHAT's psychologist Nadeem Ghalib talked about the psychological approach of VAT towards the survivors. Sheema Maurice, who is in charge of Stress Tension Reduction Therapy Department explained the effectiveness of the technique in alleviating the suffering of the survivors. The seminar passed a Declaration of Lahore, which, among other things, supported a proposed Protocol to the UN Convention against Torture.

Dr. Sherbac said how the rehabilitation work for torture survivors is done at RAHAT and how Voice The full declaration can be obtained from IRCT, Copenhagen.

TORtTURRE Volume 3, Number 3 1993

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A new member of the European Committee for the Prevention of Torture

The Committee of Ministers of the Council of Europe has elected five members to the Committee set up under the European convention for the prevention of torture and inhuman or degrading treatment or punishment, (CPT), in order to fill seats which became vacant in September 1993.

Gisela Perren-Klingler, a Swiss doctor, was the only new member. The Committee of Ministers re-elected, for a second mandate of four years, the following members who have served on the Committee since 1989:

- Love Kellberg, former Swedish Ambassador and former member of the European Commission of Human Rights,
- Claude Nicolay, Solicitor-General from Luxembourg,
- Bent Sørensen, former Danish Professor of Surgery and presently first Vice-President of the Committee,
- Stefan Terlezi, former member of the British Parliament.

The members of the Committee, coming from the 23 member states of the Council of Europe which have ratified the Convention, are empowered to visit places of detention and to make recommendations to the public authorities with a view to strengthening, if necessary, the protection of persons deprived of their liberty from torture and inhuman or degrading treatment or punishment. These visits have taken place now for more than three years.

1) Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, the Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

The MARTIN ENNALS (1927-1991)

Human Rights Award

An award in the name of Martin Ennals, former General Secretary of Amnesty International and founder or inspirator of many other non-governmental organizations in the area of Human Rights, has been established, so that those with commitment and compassion such as his can be recognized and encouraged in their work for human rights.

A substantial cash grant will be made annually by an independent, international body, the Martin Ennals Foundation (MEF), from the proceeds of a capital fund when possible.

The Martin Ennals Award (MEA) may be granted to an individual, or exceptionally to an organization, on the basis of their human rights work and commitment. Special attention will be given to courageous and innovative approaches to combat human rights violations. The value of the award will be between US$ 25,000-40,000.

Anybody can nominate any person or organization by filling in the appropriate form. Invitations to submit nominations will be sent out in March each year and from 1994 to the organizations with which Ennals was most closely involved, and to such other organizations as the Board of the Foundation may determine.

The existence of the Martin Ennals Award was announced in June 1993 on the occasion of the United Nations World Conference for Human Rights in Vienna. The first award will be given in February 1994, if sufficient funds are available to the MEF. Due to constraints of time, the normal procedure, as outlined above, cannot be followed for the first award.

For further information, please contact the Martin Ennals Award secretariat:

c/o HURIDOCS
2, Rue Jean Jacques
1201 Geneva
Switzerland
Tel.: 41-22-741 1767
Fax: 41-22-741 1768.
EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

PUBLIC STATEMENT ON TURKEY

Adopted on 15 December 1992

Introduction

1. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has to date organised three visits to Turkey. The first two visits, carried out from 9 to 21 September 1990 and 29 September to 7 October 1991, were of an ad hoc nature. They were visits which appeared to the Committee to be required in the circumstances (Article 7, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment). The circumstances in question were essentially the considerable number of reports received by the Committee, from a variety of sources, containing allegations of torture or other forms of ill-treatment of persons deprived of their liberty in Turkey. The reports related in particular to persons held in police custody. The third visit took place from 22 November to 3 December 1992, and formed part of the CPT’s programme of periodic visits for that year.

2. Throughout 1991 and 1992 an ongoing dialogue has been maintained between the Turkish authorities and the CPT on matters of concern, based on the reports drawn up by the Committee after its first and second visits and the reports provided by the Turkish authorities in response. This dialogue culminated in a number of meetings between the Turkish authorities and a delegation of the CPT held in Ankara from 22 to 24 September 1992. Subsequently, at its 14th meeting (28 September to 2 October 1992), the CPT reviewed the action taken by the Turkish authorities upon the recommendations made by the Committee in its visit reports. The Committee concluded that the continuing failure of the Turkish authorities to improve the situation in the light of its recommendations concerning (i) the strengthening of legal safeguards against torture and other forms of ill-treatment in police (and gendarmerie) establishments and (ii) the activities of the Anti-Terror Departments of the Ankara and Diyarbakir Police, justified resort to Article 10, paragraph 2, of the Convention.

3. The Turkish authorities were informed of the conclusion reached by the CPT and, in accordance with the Convention, invited to make known their views. Those views were received on 16 November 1992. The CPT examined the views presented by the Turkish authorities at its 15th meeting, held from 14 to 17 December 1992; on the same occasion, the Committee considered the facts found by the delegation which carried out the periodic visit to Turkey in November/December 1992, in particular insofar as they related to matters of police and gendarmerie custody. By the required majority of two-thirds of its members, the Committee decided to make a public statement.

The ad hoc visits

a) first visit

4. In the report drawn up following its first visit to Turkey in 1990, the CPT reached the conclusion that torture and other forms of severe ill-treatment were important characteristics of police custody in that country. More specifically, in the light of all the information gathered concerning the Anti-Terror Departments of the Ankara and Diyarbakir Police, the CPT concluded that detectives in those departments frequently re-sorted to torture and/or other forms of severe ill-treatment, both physical and psychological, when holding and questioning suspects. A variety of elements led the Committee to those conclusions.

5. In the first place, the CPT was struck by the extremely large number of allegations of torture and other forms of ill-treatment by the police received in the course of the visit, the wide range of persons making those allegations, and their consistency as regards the particular types of torture and ill-treatment said to have been inflicted. It should be noted that the allegations emanated from persons suspected or convicted of offences under anti-terrorism provisions and from persons suspected or convicted of ordinary criminal offences. As regards the latter, the number of allegations was especially high among persons detained for drug-related offences, offences against property (burglary, robbery, theft) and sex offences. Concerning the types of ill-treatment involved, the following forms were alleged time and time again: suspension by the arms; suspension by the wrists, which were fastened behind the victim (so-called “palestinian hanging”), a technique apparently employed in particular in anti-terror departments; electric shocks to sensitive parts of the body (including the genitals); squeezing of the testicles; beating of the soles of the feet (“falaka”); hitting with pressurised cold water; incarceration for lengthy periods in very small, dark and unventilated cells; threats of torture or other forms of serious ill-treatment to the person detained or against others; severe psychological humiliation.

6. The CPT’s medical findings must also be
emphasised. Indeed, a considerable number of persons examined by doctors in the CPT's visiting delegation displayed physical marks or conditions consistent with their allegations of torture or ill-treatment by the police. The delegation also met several persons in police custody who, while not stating openly that they had been ill-treated, displayed clear medical signs consistent with very recent torture or other severe ill-treatment of both a physical and psychological nature. Some specific cases were described in the Committee's report.

7. Other on-site observations in police establishments visited (relating in particular to the often extremely poor material conditions of detention, the interrogation facilities and the general attitude and demeanour of police officers) did nothing to reassure the CPT's delegation about the fate of persons taken into custody. The same can be said of the circumstances under which certain of the visits took place, in particular at Ankara Police Headquarters, where the delegation was subjected to a series of delays and diversions (and on several occasions given false information) and a number of detainees were removed in order to prevent the delegation from meeting them.

8. In its report the CPT recommended a series of measures to the Turkish authorities designed to combat the problem of torture and other forms of ill-treatment. These measures related in part to the introduction or reinforcement of formal safeguards against such methods (shortening of the maximum periods of custody by the police or gendarmerie; notification of a person's custody to his next of kin or a third party of his choice; access to a lawyer; medical examination of detained persons; a code of practice for the conduct of interrogations). The Committee also placed considerable emphasis on the need for a major and sustained effort by the Turkish authorities in the areas of education on human rights matters and professional training for law enforcement officials. It is axiomatic that the best possible guarantee against ill-treatment of persons deprived of their liberty is for its use to be unequivocally rejected by such officials.

As for the Anti-Terror Departments of the Ankara and Diyarbakir Police, the Committee recommended that appropriate steps be taken immediately to remedy the situation identified in those services.

9. The implementation of these recommendations was the subject of numerous exchanges between the Turkish authorities and the CPT during 1991. However, by the time of the Committee's second visit, few tangible results had been achieved, with the exception of the drawing up and subsequent revision of Regulations for the conduct of interrogations.

b) second visit

10. In the course of its second visit to Turkey in the Autumn of 1991, the CPT found that no progress had been made in eliminating torture and ill-treatment by the police. Many persons alleged that they had received such treatment during the previous twelve months. The types of ill-treatment alleged remained much the same; however, an increasing number of allegations were heard of forcible penetration of bodily orifices with a stick or truncheon. Once again, a number of the persons who claimed to have been ill-treated were found, on medical examination, to display marks or conditions consistent with their allegations.

The delegation also had access to a considerable number of reports drawn up during the previous twelve months, at the end of periods of police custody, by doctors belonging to Forensic Institutes; many of them contained findings consistent with particular forms of torture or severe ill-treatment. As regards more specifically the Anti-Terror Departments of the Ankara and Diyarbakir Police, the only conclusion that could be reached in the light of all the information gathered was that torture and other forms of severe ill-treatment continued unabated in those services.

11. In the report on its second visit to Turkey, the CPT reiterated the previously-made recommendations designed to prevent torture and other forms of ill-treatment. Further, the Committee recommended that a body composed of independent persons be set up immediately, with terms of reference to carry out a thorough investigation of the methods used by police officers of the Anti-Terror Departments of the Ankara and Diyarbakir Police when holding and questioning suspects. In the light of the information gathered in the course of the CPT's second visit, it was also pointed out that it would be appropriate for the terms of reference of that body to include the Anti-Terror Department of the Istanbul Police.

Review of action taken on the ad hoc visit reports

12. One year after submission of the CPT's second report, at its meeting of September/October 1992, the Committee reviewed the action taken by the Turkish authorities upon all recommendations set out in the reports drawn up after its two visits. It was noted that some progress had been made on certain issues. Measures of both a legal and practical nature had been taken in response to the CPT's recommendations on material conditions of detention in police and gendarmerie establishments. The dialogue between the Turkish authorities and the Committee on prison matters also appeared to be bearing fruit. However, implementation of the central recommendations concerning torture and other forms of ill-treatment in police establishments was clearly at a standstill.

13. Legislation going in the direction of the recommendations made by the CPT on the strengthening of legal safeguards against torture and other forms of ill-treatment had been approved by the Turkish Grand National Assembly on 21 May 1992. However, it was subsequently returned by the President of the Republic to the Assembly for reconsideration and at the time of the Committee's review of the situation, the fate of that legislation was a matter of conjecture.

14. Further, no satisfactory action had been taken on the CPT's recommendation concerning the Anti-Terror Departments of the Ankara and Diyarbakir Police. The Human Rights Inquiry Commission of the Grand National Assembly - to which the task of carrying out the investigation recommended by the Committee was entrusted - had failed to act expeditiously. It was only on 29 June 1992 that the relevant Sub-Committee of the Commission visited Ankara Police Headquarters for the first time (apparently a second visit was carried out on 7 July 1992). Further, at the time of the meetings between the Turkish authorities and a delegation of the CPT held in Ankara towards the end of September 1992, the Sub-Committee had still not apprised the Human Rights Inquiry Commission of its findings. Nor had the Sub-Committee carried out any visits to the Anti-Terror Department of the Diyarbakir Police (or for that matter the Anti-Terror Department of the Istanbul Police). Moreover, from the information provided to the CPT's delegation by a member of the Sub-Committee, it was clear that the visits carried out to the Ankara Police Headquarters had been of a quite perfunctory nature. Furthermore, it was also clear that the Sub-Committee possessed neither the powers nor the relevant professional competence necessary to carry out a "thorough investigation" as envisaged in the recommendation made by the CPT in its second report.

15. It should be added that in the course of the above-mentioned meetings in Ankara in September 1992, information received from officials of the Ministry of the Interior indicated that no credible action had been taken at the internal administrative level in response to the successive recom-
mendations of the CPT concerning the Anti-Terror Departments of the Ankara and Diyarbakir Police. The only investigations instigated had been entrusted to the very police forces which the Committee had concluded were resorting to torture. Not surprisingly, they had led nowhere.

16. In short, more than two years after the CPT’s first visit, very little had been achieved as regards the strengthening of legal safeguards against torture and ill-treatment and no concrete steps capable ofremedying the situation found by the Committee in the Anti-Terror Departments of the Ankara and Diyarbakir Police had been taken. At the same time, the Committee continued to receive reports of torture and other forms of severe ill-treatment in those departments, as well as in many other police establishments in Turkey. It was under those conditions that the CPT decided on 2 October 1992 to set in motion the procedure provided for in Article 10, paragraph 2, of the European Convention for the Prevention of Torture.

The periodic visit

17. The information gathered in the course of the CPT’s periodic visit to Turkey, from 22 November to 3 December 1992, shows that the problem of torture and other forms of ill-treatment of persons in police custody had not been resolved, despite the importance which had been attached to this subject by the present government when it came to power at the end of 1991. The Committee’s delegation was inundated with allegations of such treatment, from both ordinary criminal suspects and persons detained under anti-terrorism provisions. Further, numerous persons examined by the delegation’s doctors displayed marks or conditions consistent with their allegations.

18. By way of illustration, reference might be made to the following cases:

– several prisoners charged with offences against property, encountered in the reception unit of Diyarçamaça Prison (Istanbul), who bore fresh haematomas consistent with their allegations that they had recently been subjected to fakala and to beating on the palms of the hands and ventral face of the wrists;

– a prisoner charged with a drug-related offence being held for observation in a forensic section at Bakkırköy Hospital (Istanbul), who had a fresh rounded mark on his penis (reddish-brown and slightly swollen edge), while only one side of the middle of the arm was indurated, consistent with his allegation that an electrode had been placed by the police on that part of his body some five days earlier in order to deliver electric shocks;

– a prisoner charged with smuggling examined at Adana Prison, who displayed haematomas on the soles of his feet and a series of vertical violet stripes (10 cm long/2 cm wide) across the upper part of his back, consistent with his allegation that he had recently been subjected to fakala and beaten on the back with a truncheon while in police custody.

19. Comparable cases in Ankara and Diyarbakir could also have been described, including persons who had been held by the Anti-Terror Departments of the Ankara and Diyarbakir Police (in particular, cases of motor paralysis of the arms and severe sensory loss consistent with allegations of suspension).

However, the CPT shall instead draw attention to highly incriminating material evidence found in police establishments in those cities.

20. Acting in each case on concordant information independently received from several different sources, the Committee’s delegation carried out two impromptu visits to specific rooms situated on the top floors of both the Ankara Police Headquarters (new building) and the Diyarbakir Police Headquarters. The rooms in question were located within the areas occupied by the Law and Order Departments; which deal with ordinary criminal suspects. In the room at the Ankara Police Headquarters, the delegation discovered a low stretcher-type bed equipped with eight straps (four each side), fitting perfectly the description of the item of furniture to which persons had said they were secured when electric shocks were administered to them. No credible explanation could be proffered for the presence of this bed in what was indicated by a sign as being an “interrogation room”.

In Diyarbakir, the delegation found the equipment necessary for suspension by the arms in place and ready for use (i.e. a three metre long wooden beam which was mounted on heavily-weighted filing cabinets on opposite sides of the room and fitted with a strap made of strong material securely tied to the middle). On both occasions, the delegation’s discoveries caused considerable consternation among police officers present; some expressed regret, others defiance.

Conclusions based on the ad hoc and periodic visits

21. In the light of all the information at its disposal, the CPT can only conclude that the practice of torture and other forms of severe ill-treatment of persons in police custody remains widespread in Turkey and that such methods are applied to both ordinary criminal suspects and persons held under anti-terrorism provisions. The words “persons in police custody” should be emphasized.

22. The Committee has heard very few allegations of ill-treatment by prison staff in the different prisons visited over the last two years, and practically none of torture. Certainly, there are problems which need to be addressed in Turkish prisons, but the phenomenon of torture is not one of them. As already indicated, the CPT’s dialogue with the Turkish authorities on prison matters is on the whole progressing satisfactorily.

23. Further, in the course of its third visit to Turkey, the CPT visited the largest psychiatric establishment in the country, namely the Bakkırköy Mental and Psychological Health Hospital. No allegations of torture or other forms of ill-treatment by hospital staff were heard by the Committee’s delegation in the course of that visit; nor was any other evidence of such treatment found. In fact, the delegation was favourably impressed by staff-patient relations.

24. As for the gendarmerie (which is responsible for police functions in rural areas), the CPT has heard allegations that suspects are frequently handled roughly and on occasion even beaten by members of the gendarmerie, in particular when apprehended. Further, the CPT has reason to believe that from time to time, ill-treatment occurs in the course of the transport of prisoners (which is another task performed by the gendarmerie). However, the CPT has heard fewer allegations – and found less medical evidence – of torture or other forms of premeditated severe ill-treatment by members of the gendarmerie.

25. To sum up, as far as the CPT can judge, the phenomenon of torture and other forms of ill-treatment of persons deprived of their liberty in Turkey concerns the present situation essentially the police (and to a lesser extent the gendarmerie). All the indications are that it is a deep-rooted problem.

Action required

26. Action is required on several fronts if this problem is to be addressed effectively. Legal safeguards against torture and other forms of ill-treatment need to be reinforced and new safeguards introduced. At the same time, education on human rights matters and professional training for law enforcement officials must be intensified. In this respect, the recent arrangements to send some 20 Turkish police officers to various other European countries in order to study police methods there are to be welcomed, and the CPT trusts that they represent part of an ongoing process.

Furthermore, public prosecutors must react expeditiously and effectively when confronted with complaints of torture and ill-treatment. On this point, the recent annulment by the Constitutional Court of section 15 (3) of the Law to Fight Terrorism of 12 April 1991 (which severely curtailed the possibilities for public prosecutors to proceed against police officers alleged to have ill-treated persons in the performance of duties relating to the suppression of terrorism) is a very positive development. In order to facilitate effective action by public prosecutors, the medical examinations of persons in police and gendarmerie custody carried out by the Forensic Institutes should be broadened in scope (medical certificates should contain a statement of allegations, a clinical description, and the corresponding conclusions). Further, appropriate steps should be taken to guarantee the independence of both Forensic Institute doctors and other doctors who perform forensic tasks, as well as to provide such doctors with specialized training.

Proper managerial control and supervision of law enforcement officials must also be ensured, including the institution of effective independent monitoring mechanisms possessing appropriate powers. Neither should the issue of the conditions of service of such officials be overlooked, since satisfactory conditions of service are indispensable to the development of a high-calibre police force.

Application of the recently drawn up Custody Regulations, which relate inter alia to material conditions of detention, must also be vigorously pursued throughout the whole of Turkey. Considerable progress in this area has been made in Ankara and Diyarbakir, in pursuance of the CPT’s recommendations. However, the situation found recently at Adana Police Headquarters (in particular in the Anti-Terror Department) sug-
gests that in other parts of the country, persons detained by the police or gendarmerie may still be held under totally unacceptable conditions.

27. Particular reference must be made to the recently adopted Law amending some provisions of the Code of Criminal Procedure and of the Law relating to the organization and procedure of State Security Courts, which entered into force on 1 December 1992. This is a revised version of the text returned to the Grand National Assembly earlier in the year by the President of the Republic. The new Law inter alia clarifies the existence of certain fundamental safeguards against ill-treatment, such as the right to have a relative notified of one’s custody and the right of access to a lawyer (safeguards which had been provided for previously but which had been largely inoperative in practice), regulates in detail the mechanics of the interrogation process, introduces a right to apply to a judge for the immediate release of an apprehended person, and shortens the maximum periods of police/gendarmerie custody. The introduction of these provisions is a most welcome step forward. However, it is a matter of great regret to the CPT that their application under the jurisdiction of State Security Courts has been specifically excluded. Admittedly, the number of offences under the jurisdiction of such courts has also been reduced by the new Law, but it remains considerable: crimes against the State; terrorist offences; drugs and arms-related offences, etc.

28. The CPT wished to take this opportunity to underscore that it abhors terrorism, a crime which is all the more despicable in a democratic country such as Turkey. The Committee also deplores illicit drug and arms dealing. Further, it is fully conscious of the great difficulties facing security forces in their struggle against these destructive phenomena. Criminal activities of this kind rightly meet with a strong response from state institutions. However, under no circumstances must that response be allowed to degenerate into acts of torture or other forms of ill-treatment by law enforcement officials. Such acts are both outrageous violations of human rights and fundamentally flawed methods of obtaining reliable evidence for combating crime. They are also degrading to the officials who inflict or authorise them. Worse still, they can ultimately undermine the very structure of a democratic State.

29. Unfortunately, Turkish law as it stands today does not offer adequate protection against the application of those methods to persons apprehended on suspicion of offences falling under the jurisdiction of State Security Courts; on the contrary, it facilitates the use of such methods. Suspects in relation to collectively committed crimes may be held for up to 15 days by the police or gendarmerie (rising to 30 days in regions where a state of emergency has been declared), during which time they are routinely denied any contact with the outside world.

It is true that the provisions of section 13 of the new Law, concerning prohibited interrogation procedures, apply also to persons suspected of offences under the jurisdiction of State Security Courts. However, it would be unwise to believe that these provisions alone will be able to stem torture and ill-treatment. The methods described in section 13 have been illegal for many years under Turkish Law by virtue of the general prohibition of torture and ill-treatment in Article 17 (3) of the Constitution. Further, the stipulation that statements made as a consequence of such methods shall not have the value of evidence is merely a welcome reaffirmation of a principle already recognised by the Turkish legal system. In reality, the long periods of incommunicado custody allow time for physical marks caused by torture and ill-treatment to heal and fade; countless prisoners have described to CPT delegations the treatment techniques applied by police officers. It should also be noted that certain methods of torture commonly used do not leave physical marks, or will not if carried out expertly. Consequently, it shall often be difficult to demonstrate that a statement has been made as a consequence of ill-treatment. The same point applies to the admissibility of other evidence obtained as a result of ill-treatment (cf. section 24 of the new Law).

30. The CPT does not contest that exceptionally, specific legal procedures might be required in order to combat certain types of crime, in particular those of a terrorist nature. However, even taking into account the very difficult security conditions prevailing in several areas of Turkey, an incommunicado custody period of up to 15 days, let alone 30, is patently excessive; it is clear that a proper balance has not been struck between security considerations and the basic rights of detainees.

The CPT calls up on the Turkish Government to take appropriate measures to reduce the maximum periods for which persons suspected of offences falling under the jurisdiction of State Security Courts can be held in police or gendarmerie custody, to clearly define the circumstances under which the right of such persons to notify their next of kin of their detention can be delayed and strictly limit in time the application of such a measure, and to guarantee to such persons, as from the outset of their custody, a right of access to an independent lawyer (though not necessarily their own lawyer) as well as to a doctor other than one selected by the police.

31. As regards ordinary criminal suspects, the amendments introduced by the above-mentioned Law could deal a severe blow to the practice of torture and ill-treatment. However, much will depend on how the new provisions are applied in practice. This is a matter that the CPT intends to follow carefully in the coming months, in close co-operation with the Turkish authorities. Nevertheless, a number of points should be raised now.

32. The maximum period of police custody for collective crimes (three or more persons), although reduced, remains quite high—up to eight days at the request of a public prosecutor and by decision of a judge. In this regard, the CPT wishes to emphasise that in the interests of the prevention of ill-treatment, it is essential that the person in custody be physically brought before the judge to whom the request for an extension of the custody period is submitted. The new Law is not clear on this point.

33. Although the precise content of the right of access to a lawyer is impressive, (cf. in particular sections 14, 15 and 20 of the Law), a potential flaw lies in the fact that, with the exception of persons who are under the age of 18 or disabled, a lawyer will only be appointed if the person in custody so requests. A fail-safe procedure will have to be found that ensures detainees are (as the Law requires) informed of their right to appoint a lawyer and not subjected to pressure when considering the exercise of that right. The same point applies as regards the right of persons in custody to make known to a relative of their choice that they have been apprehended. Care will also have to be taken that the possibility offered to take a statement, in certain cases, in the absence of the lawyer appointed by the detained person is not abused.

34. Under the new provisions, public prosecutors are in an even better position to exercise considerable influence over the manner in which police officers perform their duties and, more specifically, treat persons in their custody. The CPT very much hopes that they will make effective use of the possibilities open to them, with a view to the prevention of ill-treatment.

35. The new Law is silent on the question of the right of persons in police or gendarmerie custody to have access to a doctor. However, by a circular issued by the Ministry of the Interior on 21 September 1992, a right of access to a doctor in the form previously recommended by the CPT (i.e. a right for the detainee to be examined by a doctor chosen by him — if appropriate from among a list of doctors agreed with the relevant professional body — in addition to any examination carried out by a state-employed doctor) was recognised. The CPT welcomes this development, though the inclusion of this right in a law would be preferable. Previous circulars relating to important safeguards for detained persons have remained a dead letter.

36. Finally, it should be re-emphasised that the phenomenon of torture and other forms of ill-treatment by the police will not be eradicated by legislative fiat alone. It shall always be possible for the impact of legal provisions to be diminished by ever more expertly applied techniques of ill-treatment. Indeed, it can legitimately be advanced that attacking the root of the problem of torture and ill-treatment involves not so much changing laws as transforming mentalities. This process is required not simply among police officers but throughout the criminal justice system.

37. The CPT is convinced that it would have been counterproductive from the standpoint of the protection of human rights for it to have refrained — as it was requested to do by the Turkish authorities — from making this public statement.

The statement is issued in a constructive spirit. Far from creating an obstacle, it should facilitate the efforts of both parties — acting in cooperation — to strengthen the protection of persons deprived of their liberty from torture and inhuman or degrading treatment or punishment.
The Dutch PIOOM Foundation has made the following self-monitoring kit for the assessment of a country's human rights performance. It has been prepared on the occasion of the United Nations' World Human Rights Conference 14-25 June 1993 in Vienna.

The kit enables everybody to evaluate, in a standardized form, their own (or another) country's performance in this area. The current form covers three dimensions of torture: a) severity, b) frequency, and c) range. It allows for comprehensive reporting.

The aim of PIOOM is to have two independent monitors within each country and an outside expert who would compare the two local evaluations with his own current and past data on a country. In such a way it is hoped to achieve a low-bias accurate and fair evaluation of a country's human rights performance.

Alex B. Schmid,
Corresponding Editor, TORTURE
Research Director, PIOOM
Wassenarrieweg 52
2333 AK Leiden
The Netherlands

Monitoring form

1. Are there any indications that the government tolerates torture under specific circumstances?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>O-Don't know</td>
</tr>
<tr>
<td>8</td>
<td>O-Strong full-proof evidence</td>
</tr>
<tr>
<td>7</td>
<td>O-More or superficial evidence</td>
</tr>
<tr>
<td>6</td>
<td>O-Strong full-proof evidence</td>
</tr>
<tr>
<td>5</td>
<td>O-More or superficial evidence</td>
</tr>
<tr>
<td>4</td>
<td>O-Almost never</td>
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<tr>
<td>3</td>
<td>O-Sometimes</td>
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<tr>
<td>2</td>
<td>O-Sometimes</td>
</tr>
<tr>
<td>1</td>
<td>O-Almost never</td>
</tr>
<tr>
<td>0</td>
<td>O-Never</td>
</tr>
</tbody>
</table>

If yes describe circumstances:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

2. How would you judge the level of approval of torture practiced by federal authorities/national government?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>O-Don't know</td>
</tr>
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<tr>
<td>2</td>
<td>O-Sometimes</td>
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<tr>
<td>1</td>
<td>O-Almost never</td>
</tr>
<tr>
<td>0</td>
<td>O-Never</td>
</tr>
</tbody>
</table>

Reference:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

3. How would you judge the level of approval of torture practiced by state (provincial) and local authorities?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>O-Don't know</td>
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<tr>
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<tr>
<td>1</td>
<td>O-Almost never</td>
</tr>
<tr>
<td>0</td>
<td>O-Never</td>
</tr>
</tbody>
</table>

4. Do you know of any complaints, charges, allegations or evidence of torture in the past year?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>O-Don't know</td>
</tr>
<tr>
<td>8</td>
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<tr>
<td>1</td>
<td>O-Almost never</td>
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<tr>
<td>0</td>
<td>O-Never</td>
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</tbody>
</table>

Reference:

________________________________________________________________________

________________________________________________________________________

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________________________________________________________________________

5. Is this information on the practice of torture based on:

O-No specific information, just hearsay
O-Internal evidence (interviewees accounts)
O-Discussions with lawyers in contact with detainees
O-Discussions with doctors, medical evidence
O-Documentation by human rights organizations

Reference:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

6. How would you judge the prevalence of the use of torture by state authorities in the country?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>O-Don't know</td>
</tr>
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<td>8</td>
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<tr>
<td>1</td>
<td>O-Almost never</td>
</tr>
<tr>
<td>0</td>
<td>O-Never</td>
</tr>
</tbody>
</table>

7. How would you judge the prevalence of the use of rape or sexual abuse of female prisoners by state authorities in the country?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>O-Don't know</td>
</tr>
<tr>
<td>8</td>
<td>O-Strong full-proof evidence</td>
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<td>1</td>
<td>O-Almost never</td>
</tr>
<tr>
<td>0</td>
<td>O-Never</td>
</tr>
</tbody>
</table>

8. How would you judge the prevalence of the use of rape or sexual abuse of male prisoners by state authorities in the country?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>O-Don't know</td>
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<tr>
<td>0</td>
<td>O-Never</td>
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</tbody>
</table>

9. How would you judge the prevalence of the use of beatings by state authorities in the country?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>O-Don't know</td>
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<td>1</td>
<td>O-Almost never</td>
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<tr>
<td>0</td>
<td>O-Never</td>
</tr>
</tbody>
</table>

10. How many cases of torture were reported in the country in 1991?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>O-Don't know</td>
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<tr>
<td>8</td>
<td>O-Strong full-proof evidence</td>
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<tr>
<td>1</td>
<td>O-Almost never</td>
</tr>
<tr>
<td>0</td>
<td>O-Never</td>
</tr>
</tbody>
</table>

Reference:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
11. How would you judge the prevalence of torture related to the victim category of political prisoners?

<table>
<thead>
<tr>
<th>Score</th>
<th>Never</th>
<th>Seldom</th>
<th>Sometimes</th>
<th>All the time</th>
<th>Don't know</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
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<td></td>
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<td>2</td>
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</tbody>
</table>

12. How would you judge the prevalence of torture related to the victim category of terrorists/insurgents?

<table>
<thead>
<tr>
<th>Score</th>
<th>Never</th>
<th>Seldom</th>
<th>Sometimes</th>
<th>All the time</th>
<th>Don't know</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
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<td></td>
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<tr>
<td>2</td>
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<td>4</td>
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</tbody>
</table>

13. How would you judge the prevalence of torture related to the victim category of criminal suspects?

<table>
<thead>
<tr>
<th>Score</th>
<th>Never</th>
<th>Seldom</th>
<th>Sometimes</th>
<th>All the time</th>
<th>Don't know</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>2</td>
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<tr>
<td>4</td>
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</tr>
</tbody>
</table>

14. How would you judge the prevalence of torture related to the victim category of drug-dealers/traffickers?

<table>
<thead>
<tr>
<th>Score</th>
<th>Never</th>
<th>Seldom</th>
<th>Sometimes</th>
<th>All the time</th>
<th>Don't know</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>2</td>
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<td>4</td>
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</tr>
</tbody>
</table>

15. How would you judge the prevalence of torture related to the victim category of foreign nationals?

<table>
<thead>
<tr>
<th>Score</th>
<th>Never</th>
<th>Seldom</th>
<th>Sometimes</th>
<th>All the time</th>
<th>Don't know</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>2</td>
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<td>4</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

16. Where did the actual torture take place?

<table>
<thead>
<tr>
<th>Region(s): (indicate which</th>
<th>Score</th>
<th>Never</th>
<th>Seldom</th>
<th>Sometimes</th>
<th>All the time</th>
<th>Don't know</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td></td>
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<td></td>
<td></td>
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<td>3</td>
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<td></td>
</tr>
</tbody>
</table>

17. In which type of facilities did the actual torture take place? Indicate more than one possibility if necessary.

<table>
<thead>
<tr>
<th>Facilities</th>
<th>Score</th>
<th>Never</th>
<th>Seldom</th>
<th>Sometimes</th>
<th>All the time</th>
<th>Don't know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>1</td>
<td></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Secret service/intelligence</td>
<td>2</td>
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<td></td>
<td></td>
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<tr>
<td>Military intelligence facilities</td>
<td>3</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Army</td>
<td>4</td>
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<tr>
<td>Navy</td>
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<tr>
<td>Air force</td>
<td>6</td>
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<tr>
<td>Military intelligence facilities</td>
<td>7</td>
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</tr>
<tr>
<td>Police</td>
<td>8</td>
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<td></td>
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</tr>
<tr>
<td>Camps</td>
<td>9</td>
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<tr>
<td>Other</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

18. Indicate for each of the mentioned perpetrator agencies or organisations their responsibility for specific type of acts. Indicate more than one possibility if necessary.

<table>
<thead>
<tr>
<th>Agency/ Organisation</th>
<th>Beating</th>
<th>Torturing</th>
<th>Killing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Prison officials</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Military (uniformed)</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Secret service(s)</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Military intelligence services</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Paramilitary units</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Guerrilla/terrorist organisations</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Plainclothesmen</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Pro-government death squads</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Party cadres</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
<tr>
<td>Other (indicate group/organization)</td>
<td>yes/no</td>
<td>yes/no</td>
<td>yes/no</td>
</tr>
</tbody>
</table>

19. Do you know of any institutional torture facilities?

<table>
<thead>
<tr>
<th>Score</th>
<th>No (special sites, special units do exist or special training by foreign agencies does occur)</th>
<th>Yes (special sites, special units do exist or special training by foreign agencies does occur)</th>
<th>Don't know</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>2</td>
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</tbody>
</table>

20. During which phase of the arrest/detention have the victims been tortured? Indicate more than one possibility if necessary.

<table>
<thead>
<tr>
<th>Phase of the arrest/detention</th>
<th>Pre-arrest</th>
<th>During arrest</th>
<th>Interrogation</th>
<th>Pre-trial</th>
<th>Post-conviction</th>
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</tbody>
</table>
21. For what purpose(s) have torture techniques been used? Indicate more than one possibility if necessary.

Score

S 1- O-For intimidation
2- O-For the extraction of information and/or confessions
3- O-For punishment
4- O-For the destruction of the personality
5- O-For the destruction of members of the opposition
9- O-Don’t know
O-For other reasons, please indicate:
1
2
3

22. Which kind of torture techniques have been used according to the sources of information? Indicate more than one possibility if necessary.

O-Physical inflection of pain
O-Sexual abuse
O-Psychological techniques, mental torture
O-Deprivation techniques
O-Use of pharmaceutical drugs
O-Other, please indicate:
1
2
3

23. Does the government incarcerate persons in psychiatric hospitals for political reasons?

Score

S 0- O-No
1- O-Yes
9- O-Don’t know
If yes describe cases:
1.
2.
3.

24. Which kind of threats did the perpetrators issue preceding the actual torture?

Score

S 0- O-No threats issued
1- O-Verbal warning (notes, telephone calls etc.)
2- O-Disappearance of relative(s) friend(s) and colleague(s)
3- O-Bodies used as warnings - Bodies left to rot after - massacre;
- Bullet-ridden bodies dumped in public state;
- Mutilated/castrated bodies dumped in public site;
- Corpse sent to relatives with patently fraudulent explanation of death;
9- O-Don’t know
O- Other; please indicate
1.
2.
3.

25. If there are reports on the occurrence of torture are they sporadic or do they show a persistent pattern?

Score

F0-O-No reports
1-0-Sporadic
2-0-Persistent pattern
9-0-Don’t know
What indications do you have for a persistent pattern?

If there is a persistent pattern what can you say about its history?

26. In your judgement, has the right not to be tortured been respected in your country in 1992, in comparison to the previous regime?

Score

S 0- O-Situation has not changed (was bad and remained bad)
3- O-Situation has worsened
9- O-Don’t know
2- O-Situation has been respected (from bad to less bad)

27. In your judgement, has the right not to be tortured been respected in your country in 1992, in comparison to the previous regime?

Score

S 0- O-Situation was good and remained good
1- O-Situation has improved (from bad to less bad)
2- O-Situation has not changed (was bad and remained bad)
3- O-Situation has worsened
9- O-Don’t know

28. Indicate in the list below to which group categories the victims of torture belong? Indicate more than one possibility if necessary.

Score

R 0- O-No victims of torture
1- O-Armed opponents of officers involved in failed coup who were personally involved in violence
O-Opposition party leaders or members of previous government
O-Members of government/ representatives of the government
2- O-Non-violent protesters; party or class (labor/peasant) activists; lawyers, journalists and human rights workers;
3- O-Relatives of activists or protesters;
4- O-Members of class or collectivity (ethnic/national/tribal/ religious) randomly selected;
5- O-Members of a group categorically selected in whole or in part.
9- O-Don’t know
O- Other group category(ies), please indicate:
1
2
3

29. Are those held responsible for torture brought to justice?

Score

S 0- O-Does not apply
1- O-Always
2- O-Sometimes, when there is domestic opposition pressure
3- O-Sometimes, when there is foreign pressure to do so
4- O-Rarely
5- O-Never
9- O-Don’t know

30. Does the government allow visits to prisons by human rights organizations?
31. Are all prisoners held in publicly known places and is accurate information about their whereabouts made available to relatives and lawyers?

Score
S 0- O-Yes
1- O-No
9- O-Don’t know

32. Does the government ensure that all complaints and reports of torture are impartially and effectively investigated?

Score
S 0- O-Yes, perpetrators are charged, prosecuted and finally convicted
1- O-No, perpetrators are charged, prosecuted, and finally charges dropped
2- O-No, perpetrators are charged, prosecuted, and finally amnestied
9- O-Don’t know

33. If an NGO has made an inquiry, published a report, made recommendations within the period surveyed, or issued general appeals or statements of concern, how would you judge the government’s response?

Score
S 0- O-Does not apply
1- O-Positive response
2- O-Mixed response
3- O-No response

34. If the government’s response in question 33 was positive which steps were taken by the government to improve the situation?

Score
S 0- O-Negative (categorical denial of charges, or rejection of right to intervene)
5- O-Defamation or counteraccusation of NGO
9- O-Don’t know

35. What are in your view the main reasons for the occurrence of torture in your country?

Score
S 0- O-Does not apply
1- O-Government changes existing law(s) and implements a new practice
2- O-Government accepts the critique and offers to cooperate in revising existing law(s) and practice
3- O-Government explains remedial steps in individual cases
9- O-Don’t know

36. What could in your view, be done to reduce torture in your country?

Score
S 0- O-Does not apply
1- O-Government changes existing law(s) and implements a new practice
2- O-Government accepts the critique and offers to cooperate in revising existing law(s) and practice
3- O-Government explains remedial steps in individual cases
9- O-Don’t know

United Nations on impunity and compensation to victims

Need for further development in basic ideas for compensation for human rights violations

Since 1989, Theo Van Boven (Special Rapporteur, The Netherlands) has been conducting a study on the restitution, compensation and rehabilitation of victims of grave violations of human rights. In the second progress report, submitted to the Sub-Commission of the UN Human Rights Commission 1992, Van Boven examined recent UN decisions and initiatives. He observed that very few rapporteurs were mindful of the question of compensation for victims and that the victims’ fate was often forgotten.

There needed to be a more systematic approach to the question of compensation. Even the Security Council’s far-reaching decisions on Iraq only deal with losses suffered by foreign governments, companies and citizens of these countries – there are no provisions for the Iraqi population.

The Rapporteur also looked at how the question of compensation was approached by other inter-governmental organizations – the ILO and the European Court of Human Rights. At the end of the report he raised the question of impunity, noting that legally-sanctioned impunity often prevents victims from going to court to obtain reparation.

Mr. Boven’s study has been commented upon during several other debates, including those on contemporary forms of slavery (including the question of compensation for “comfort women”), impunity, indigenous peoples, and the rights of UN officials. This was completely in line with the wishes of the Rapporteur, who has suggested that all the Special Rapporteurs, including those designated by the Commission, should take the issue into account.

A study by the UN Sub-Commission

In 1991, in an effort to counter the increasingly common phenomenon of impunity, the Sub-Commission ap-
Las Naciones Unidas sobre la impunidad y la compensación a las víctimas

Necesidad de un desarrollo ulterior en las ideas básicas sobre la compensación de violaciones de los derechos humanos

Desde 1989, Theo Van Boven (Relator Especial, Países Bajos) viene realizando un estudio sobre la restitución, compensación y rehabilitación de las víctimas de graves violaciones de los derechos humanos. En su segundo informe presentado en 1992 a la Subcomisión de la Comisión de los Derechos Humanos de la ONU, Van Boven examina las recientes decisiones e iniciativas de la ONU. Observa que muy pocos relatores tienen en cuenta la cuestión de compensación para las víctimas y que en muchos casos se olvida la suerte de las víctimas. Es necesario que la cuestión de compensación sea enfocada de forma más sistemática. Incluso las decisiones de gran alcance adoptadas por el Consejo de Seguridad referentes a Iraq, sólo se refieren a las pérdidas sufridas por gobiernos, compañías y ciudadanos extranjeros; no contienen ninguna disposición a favor de la población iraquí.

El Relator también estudia la manera en que otras organizaciones intergubernamentales enfocan la cuestión de compensación: la OIT y el Tribunal Europeo de Derechos Humanos. Al final del informe plantea la cuestión de la "impunidad", observando que la impunidad legalmente sancionada a menudo impide que las víctimas recurran a los tribunales para obtener reparación.

El estudio del Sr. Boven ha sido objeto de comentarios en varios otros debates, entre éstos los relativos a las formas contemporáneas de esclavitud (incluyendo la cuestión de compensación a las "mujeres de consuelo"), la impunidad, los pueblos indígenas, y los derechos de los funcionarios de la ONU. Esto concurra totalmente con los deseos del Relator quien ha propuesto que todos los Relatores Especiales, inclusive los nombrados por la Comisión, tomen en consideración el asunto.

Un estudio de la Subcomisión de la ONU

En un intento de combatir el fenómeno cada vez más común de la impunidad, en 1991 la Subcomisión encargó a dos miembros, el Sr. Guissé (Senegal) y el Sr. Joinet (Francia), la elaboración de un documento de trabajo sobre la cuestión.

El documento elaborado por los dos relatores contiene sugerencias concernientes a los objetivos, los métodos de trabajo y el contenido de un posible estudio futuro del tema. Los relatores enfatizan que la impunidad es un fenómeno altamente preocupante, no sólo para las organizaciones no gubernamentales, sino también (y particularmente) para las autoridades políticas. Los gobiernos que se enfrentan a problemas tales como conflictos armados, negociaciones de paz, procesos democratizadores o la delincuencia interna-
The human rights organization _avre_ in Colombia has studied the background of the social violence and psychological findings in the population. _TORTURE_ hereby brings a short resumé

**Psychopathological alterations in victims of the sociopolitical violence in Colombia**

Colombia has experienced continuous violence for 500 years because of its exceptionally good geographical position, abundance of natural resources, its people’s capacity, and the foreign dominance of its economy. This violence has invaded the atmosphere of daily life and the collective consciousness, it has passed through all the social institutions, and has been legitimized by the state through impunity.

Each and every family in Colombia has been affected directly or indirectly by the violence, especially sociopolitical violence. Examples of this violence include the State itself and right or left wing groups who fight for power. These groups face death in many wars – insurgent and counterinsurgent war, the dirty war, the Emerald war, the drug war, etc.

Parallel with this situation, violent local phenomena are established and permitted by institutions of the State as “days of social cleansing” in the cities, and the massacres and threats to farm workers in the country.

The victims of this situation are innumerable - they come from all strata of society but it is obvious that most of them are _campesinos_ [farm workers] and poor people from the cities. They are relatives of victims of murder and missing persons, they are the ones who have been threatened, the ones who have been driven away by the bombings, the shooting of machine guns, massacres and threats in the country, the ones exposed to torture, political prisoners, the kidnapped and their relatives, the political persecuted, the members of the jurisdictional branch and their families, those who have been victims of attempted murder, the victims of the terrorism of drug traffic, and the victims of the terrorism of the state. The witnesses of assassinations, trade unionists, members of popular organizations, the religious persons who are involved in the cause of the poor people, those who defend life and the Human Rights, the needy, those who claim justice, those who claim revenge, and those who are paralysed with fear.

**Symptomatology and findings**

The victims of sociopolitical violence manifest psychopathological reactions. Most of the adult population _avre_ was able to study was composed of women because most of the victims of the killings and disappearances were men.

In the study on victims subjected to violent acts from different areas of the country, the vast majority were women, and children under the age of ten; most were widows, 41% were single mothers, most were from the country and, while the study was made, unemployed.

All were victims of acts such as military bombings of guerilla areas, urban terrorism, massacres, assassinations, mistreatment, disappearances of loved ones, threats to life, and displacements. Most pathology was found in areas where the greatest atrocities were perpetrated. 98% presented emotional symptoms and 77% psychiatric disturbances that fulfilled the diagnostic criteria of DSM-III-R. Psychological disturbances were found in 76%, 55%, and 85% of the women, men, and children, respectively. The commonest diagnosis was the syndrome of depression: major depression in women, difficulties in adaptation with a depressive state of mind in men.

Contrary to expectation, no disintegration of the family was found. In most cases the man died and the woman went on living with her children, even in exile and despite being unemployed.

The less frequent occurrence of mental disturbance in adult males (only in 4 bachelors who lived at home with their parents and a widower with adult children) reflects the importance of the woman as the pillar of the family and a possible protective factor against the development of mental pathology. Most children in the study group were boys, so perhaps boy victims develop more mental symptoms than girl victims.

**Short resumé of the findings and discussions**

- The development of subclinical symptoms and the vulnerability of the clinical depression was decided by decreased self-esteem resulting from earlier or present loss of possessions (due to poverty and previous violent circumstances), from the duration of the violent situation and the symbolic and real hardship and seriousness of the violent circumstances.

- Extremely stressful events (disappearance of single or groups of individuals, grisly murders) were related to more serious psychological and somatic symptoms and to serious psychological disturbances. Somatic symptoms were very common in both adults and children.

- The relationship between psychological disturbances and basic psychopathology in minors makes one speculate whether the latter can cause this group to develop mental changes.

- Terrorist violence leaves psychological sequelae according to the vulnerability of the exposed person.

- The sequelae of the long-lasting _Emerald war_ violence are more due to poverty and lack of law and order than to the loss of relatives. It is as if people have got used to losing their relatives but not to living with hunger.

- The organized violence, planned and directed towards special goals and with political flexibility, has more gruesome characteristics, and its sequelae are directly related to the severity of the violence. The psychological suffering can be decreased by the social support which the victims may succeed in obtaining.

- Better education of women is not a protective factor against the development of mental disturbances. Just as a better education gives better job possibilities, so do the following increase the frequency of psychopathology in women – the general state of loneliness, poverty, sole responsibility for the upbringing of children, isolation, and state of social lawlessness.
La organización de los derechos humanos, corporación *avre* ha investigado el origen de la violencia social y los hallazgos psicológicos en la población. Por lo presente *TORTURE* publica un corto resumen

**Alteraciones psicopatológicas en víctimas de la violencia sociopolítica en Colombia**

En Colombia, el proceso de dominio económico foráneo, su privilegiada posición geográfica, la abundancia de sus recursos naturales y la capacidad de respuesta de sus gentes, se han conjugado para producir un continuo de violencia desde hace quinientos años. Esta violencia ha invadido los ámbitos de la cotidianidad y de la conciencia colectiva, ha trasegado por todas las instituciones sociales y ha sido legitimada desde el Estado a través de la impunidad.

En Colombia no existe una sola familia que no haya sido afectada directa o indirectamente por la violencia, en especial por la violencia sociopolítica. Ejemplos de esta violencia incluye el Estado mismo y grupos organizados de derecha y de izquierda, que luchan por el poder. Estos grupos se encuentran hoy enfrentados a muerte en múltiples guerras (guerra insurgente y contrainsurgente, guerra sucia, guerra de las esmeraldas, guerra del narcotráfico, etc.)

Paralelos a esta situación, se dan fenómenos violentos locales agenciados y admitidos por instituciones del Estado como son las “jornadas de limpieza social” en las ciudades y las masacres y amenazas contra los campesinos en los campos.

Las víctimas de esta situación son incontables, pertenecen a todas las capas sociales pero como es obvio son más numerosas dentro de los campesinos y la clase pobre de las ciudades. Son ellos los familiares de asesinados y desaparecidos, los amenzados, los desplazados forzosamente por bombardeos, ametrallamientos, masacres y amenazas en los campos, los torturados, los presos políticos, los secuestrados y sus familiares, los perseguidos políticos, los miembros de la rama Jurisdiccional y sus familias, los que han sufrido atentados, las víctimas del terrorismo del narcotráfico y del terrorismo de Estado.

**Sintomatología y hallazgos**

Víctimas de la violencia sociopolítica presentan reacciones psicopatológicas.

En su mayoría la población adulta la constituyeron mujeres debido a que contra los hombres se dirigieron la mayoría de asesinatos y desapariciones.

En un estudio realizado en personas víctimas de actos violentos en varias zonas del país se encontró que la gran mayoría de las víctimas del estudio fueron mujeres y niños menores de diez años, el 41% fueron madres solas, la mayoría viudas, de origen campesino y que en el momento de la investigación se hallaban desempleadas.

Todas las personas estudiadas fueron víctimas de actos violentos tales como bombardeos militares a zonas de influencia de la guerrilla, terrorismo urbano, masacres, asesinato y desaparición de seres queridos, amenazas contra la vida y desplazamiento.

El 98% de las personas presentó sintomatología emocional y el 77% Trastorno Psicopático como tal, según los criterios diagnósticos del DSM-III-R.

El Trastorno Psicopático se encontró en 76% de las mujeres atendidas, 55% de los hombres y 85% de los niños.

En todos los pacientes el diagnóstico más frecuente fue el Síndrome Depresivo así: Depresión mayor en mujeres y Trastorno Adaptativo con Estado de Ansia Depresivo en varones.

Contrario a lo esperado, no se observó desintegración familiar; en la mayoría de los casos murió el hombre y la mujer continuó viviendo con los hijos, aún en el exilio y a pesar de estar desempleada.

Las zonas donde más patología se encontró fueron aquellas donde se perpetraron los crímenes más atroces.

La menor ocurrencia de Trastorno Mental en varones adultos (entre los cuales solo había 4 solteros que vivían en casa de sus padres y un viudo con hijos mayores), refleja la importancia de la mujer en el núcleo familiar como posible factor protector contra el desarrollo de Patología Mental.

**Un corto resumen de los hallazgos y conclusiones**

- Se confirmó que la disminución de la autoestima debida a pérdidas de objeto —pasadas o actuales— (dadas por la pobreza y por hechos violentos vividos previamente), la cronicidad de la situación de violencia y la severidad o gravedad simbólica y real de los hechos violentos, son determinantes en el desarrollo de síntomas subclínicos y en la vulnerabilidad a la depresión clínica.

- Acontecimientos severamente estresantes (desaparición individual y masiva de personas y asesinatos perpetrados con suma crueldad), se relacionaron con mayor sintomatología psíquica y somática y con trastorno psicopático más grave. Hubo alta incidencia de somatización tanto en adultos como en niños.

- La asociación entre trastorno psicopático y psicopatología de base en los menores de edad, hace pensar en que esta última sea un posible factor de vulnerabilidad para que...
State against Nation:
A Mayan perspective on torture

By
Daniel Matul Morales

As descendants of the Mayan race, we in the International Maya League found it difficult to decide to participate in this symposium on the crime of torture in Guatemala. There is no worse offence to human dignity than to be forced to recall and speak about the barbarity that we Mayans have endured over the past five hundred years.

In 1524 the Spanish invaded Guatemala, bringing with them the philosophy and practice of torture. In his first letter to Hernando Cortés, the conqueror, Pedro de Alvarado says he warned our forefathers that if they refused to be loyal to the King of Spain, they would be taken as slaves. He also tells Cortés: "Since I recognized in them such ill will to serve His Majesty, and for the good and tranquility of this land, I burned them and ordered that the city be burned." Alvarado adds that "all those taken in battle were branded and made slaves." This brutality was raised to the level of judicial practice, as Juan Gines de Sepúlveda notes in his Treatise on the Just Causes of the War Against the Indians. From then on, a racist, exploitative, and oppressive state was imposed in Guatemala. Torture and all types of genocidal policies have been supported and carried out by the occupying army and government.

The international community can assess the social, moral, and political costs to humanity of the development of government criminality in Guatemala over the centuries. For the Mayans, judicial solutions based on the dogmas of deterministic schools of thought are not very important, because many crucial questions remain unanswered by those dogmas. For example, why does the government try to annihilate the concept of God we have developed in our relationship with the cosmos? Why did they take our lands? Why do they treat us as beasts of burden, denying us education, health care, housing, and technology? Why do they kill our parents, siblings, grandchildren, and grandparents? Why do they imprison us in our own communities? Why do they kill us when we buy more than a pound of basic grains or other products? Why do they use the mass media to incite racial hatred and to teach others to despise the Mayan people?

For centuries, Guatemalan governmental administrations have consistently demonstrated levels of criminality difficult to surpass in history. Their crimes include torture, forced disappearances, illegal executions and genocide. And they all seem to result from a problem as yet unresolved: the antagonism between the state and the Mayan Nation.

The Mayan Nation has never renounced its concept of the cosmos, its traditions, its values, its myths, or the originality of its language and daily social practice, the goal of which was, is, and will continue to be creation and beauty through adherence to the laws of aesthetic wisdom. The system imposed has chosen the practice of racism to invalidate Mayan thought, accusing the bearers of this thought of being "primitive" or "becoming extinct".

This same racist system hindered the development of our intellectual, moral, and political capacities. The system was used to subjugate us; and instead of resolving the resulting antagonism through dialogue and compromise, the state institutionalized the use of violence. This has led us to believe that government expressions of brutality do not necessarily stem from the personal characteristics of particular government officials or administrations, but instead result from the system’s need to integrate, assimilate, westernize, and link by force its state to a Nation that refuses to renounce its collective, ancestral personality.

Torture is the example that best reveals the system’s inability to persuade the Mayan people. In Guatemala, torture is practised in fulfilment of a “duty” to wipe out the identity of the “enemy”, the Mayan people. According to the racist criteria of the system, expressed over the course of more than 450 years of oppression, humiliation, and rejection, only in this way will progress be achieved.

We are tortured to make us break the silence surrounding the secrets of our identity and to relinquish our cultural, spiritual, and intellectual legacies.

Failing in the face of that resistance and struggle, the system inevitably demonstrates in each criminal act a greater
Naturaleza y fundamento del delito de tortura en Guatemala:
Perspectiva Maya

Daniel Matul Morales, descendant of the Mayan race, and member of Liga Maya Internacional, held a moving speech on the international symposia on torture in Guatemala, Washington DC, November 1992.

Por Daniel Matul Morales

Como descendientes de la raíz Maya, nos ha sido muy difícil tomar la decisión para participar en este simposio sobre el Delito de la tortura en Guatemala. Nos ha sido difícil porque no hay peor ofensa a la dignidad humana que recordar, hablar, decir y contar la barbarie que hemos venido afrontando durante casi 500 años.

Precisamente en aquella época se produjo la invasión castellana y junto a ella la implantación de la filosofía y práctica de la tortura. En la primera carta de relación que el invasor Pedro de Alvarado dirigió a Hernando de Cortés, informa que advirtió a nuestros abuelos que de resistirse a ser leales a los reyes de España, serían tomados como esclavos. Más adelante continua informando: "... y como conocí de ellos tener tan mala voluntad al servicio de su Majestad, y para el bien y sostege de esta tierra, yo los quemé; y manda a quemar la ciudad...” Agrega Alvarado: "... todos los que en la guerra se tomaron, se hirieron y se hicieron esclavos...” Esta brutalidad, fue elevada a niveles de práctica judicial lícita en los terribles escritos de un jurisconsulto improvisado, llamado Juan Gines de Sepúlveda, que aporta la raíz Maya, y miembro de la Liga Maya Internacional ha hecho un discurso en el Simposio Internacional Sobre la Tortura en Guatemala. El Simposio fue en Washington D.C. noviembre 1992.

Por qué trata de aniquilar el concepto de Dios que nosotros hemos construido en nuestra relación con el Cosmos? ¿Por qué nos quitaron nuestras tierras? ¿Por qué nos mantienen como bestias de carga y nos negan educación, salud, vida y tecnología? ¿Por qué nuestros abuelos, hermanos, nuestros abuelos? ¿Por qué nos ponen por cárcel nuestras propias comunidades? ¿Por qué se nos martiriza cuando compramos más de una libra de granos básicos y otros productos de consumo diario? ¿Por qué se usan los medios de difusión masivos para incitar al odio racial y al desprecio por el pueblo Maya?

Desde hace siglos, las administraciones gubernamentales guatemaltecas, habitualmente, presentan figuras delicuosas nunca vistas y difícilmente superables en la historia mundial del genocidio, etnocidio, tortura, desapariciones, ejecuciones ilegales. Todos estos fenómenos, abominables, parecen ser el resultado de un problema aún

tadas por un ejército de ocupación y una administración pública.

El ámbito internacional, puede evaluar cuáles han sido los costos sociales, morales y políticos para la humanidad, el hecho del nacimiento, evolución y desarrollo de la criminalización pública guatemalteca a lo largo de centurias. Para nosotros los mayas, muy poco nos aportan las soluciones jurídicas basadas en los dogmas de escuelas deterministas inspiradas en las teorías de César Lombroso y Emilio Durkheim, porque por una parte, son dogmas superados y por la otra nunca han resuelto interrogantes cardinales, como por ejemplo:

Después de siglos, las administraciones gubernamentales guatemaltecas, habitualmente, presentan figuras delicuosas nunca vistas y difícilmente superables en la historia mundial del genocidio, etnocidio, tortura, desapariciones, ejecuciones ilegales. Todos estos fenómenos, abominables, parecen ser el resultado de un problema aún
todavía no resuelto: antagonismo entre Estado y Nación.

Como la Nación maya jamás renunció a su propia concepción del Cosmos, a sus tradiciones, valores, mitos, cultura, ordenamiento filosófico, originalidad de su lenguaje y a su práctica social cotidiana, cuyo ideal fue, es y será la creación y la belleza mediante el ejercicio de las leyes de la ciencia estética, sociopolíticamente el sistema impuesto, eligió la práctica del racismo, para deslegitimar la universalidad del pensamiento maya, acusando a sus portadores de “primitivos”, “grupos de subsistencia” o “pueblos en vías a desaparecer”, cuando nó, de “indígenas”.

Este mismo sistema racista impidió el desarrollo de la capacidad intelectual, moral y política en el seno de su Estado, a cambio lo instrumentalizó para pretender nuestro sometimiento, y en vez de resolver aquel antagonismo por la vía del diálogo, la discusión y el compromiso, se institucionalizó el uso y el abuso de la violencia. De ahí devienen nuestras reflexiones cuando afirmamos, que las estatales expresiones de brutalidad no responden necesariamente a características personales de determinados funcionarios o gobiernos, sino a la necesidad que tiene el sistema de integrar, aculturizar, ladinizar y conectar por la fuerza a su Estado, a una Nación que se resiste a la renuncia de su ancestral personalidad colectiva. La tortura es el mejor ejemplo que revela la incapacidad de convencimiento del sistema, que el torturador apoya, reproduce y defiende. Esto quiere decir, que en Guatemala se tortura en el cumplimiento del deber y en el ejercicio de la responsabilidad, ¿qué deber y qué responsabilidad? sencillamente, extinguir la identidad del enemigo: El pueblo maya. Y porque además, siguen los criterios racistas del sistema, expresados a lo largo de más de 450 años de opresión, humillación y desprecio, “solo así se logrará el progreso del país”.

Se nos tortura para que rompamos el silencio que guarda las identidades y entreguemos nuestros legados culturales, espirituales e intelectuales.

Inevitablemente el sistema, al fracasar ante la resistencia y lucha de una raíz milenaria, en cada acto criminal, manifiesta una mayor ansia por la impunidad, la permisibilidad y legalización de la violencia al extremo de otorgarle rango “constitucional” y convertir su ejecución en un innegable espectáculo público. Así ocurrió en 1524, así ocurrió en 1821 y así ocurrió el 31 de mayo de 1985, cuando los gobernantes delincuentes promulgaron anticipadamente su propia amnistía en las Leyes de Indias, en el Acta de la llamada “independencia” y en la “Constitución de la República”, respectivamente.

Por estas razones, queridos hermanos aquí presentes, al invitarnos a reflexionar sobre el estado de violencia que envuelve a nuestra Guatemala, deseamos también compartir con ustedes, uno de los tesoros más sagrados de nuestra cultura maya: Enfrentar la oscuridad ha sido nuestra Guatemala, desea ha su propia amnistía en la Leyes de Indias, en el Acta de la llamada “independencia” y en la “Constitución de la República”, respectivamente.

Hemos llegado, entonces, queridos hermanos, al momento que soñaron muchas generaciones mayas, pero que ahora, nosotros tenemos el privilegio de vivir: La comunicación de la lucha contra la oscuridad, esa comunicación que ahora, es portadora de la creación, es portadora de la comunicación de un mundo digno y de un mundo fecundo en la patria más sufrida del planeta, pero que ahora también, se prepara para desatar para siempre: La muerte y la tortura y se prepara para vivir como se debe vivir, renunciando al stress de la criminalidad, allí donde lo imposible es una equivocada adversidad.

Help for victims of organized violence
A speech from a training seminar in Guatemala, October 1992

By
Klaus Nyholm*

Denmark’s cooperation with Central America is relatively recent. Our presence in the region is oriented towards contributing to the development of a more democratic social order based on the fundamental respect for human rights.

Until now, our activity has concentrated on a bilateral programme with Nicaragua and some regional programmes related to our basic principles of cooperation.

In recent years, elections have taken place and civilian governments have arisen in the entire Central American region. We consider that this is an extremely important advancement. However, it is necessary to work for the deepening and consolidation of these democracies. With respect to human rights, we believe that action is fundamentally necessary in three areas:

First, it is necessary that the population know their fundamental rights. Human rights are not limited by political rights. The existence of hunger and unemployment and lack of health and...
educational services are harmful for human rights.

Second, there should be no discrimination on the grounds of different sex, race, or religion. The distinct components of the society ought to be guaranteed their equality of rights.

Third, there should be a trustworthy, autonomous, and efficient system for administration of justice.

In some countries, there is no delimitation between the military and civil jurisdictions, and the military is not under the control of the civil powers.

The objective of the Danish programme for human rights is to call attention to and to support the improvement of these aspects in the countries via government organizations, regional organizations, and national NGOs in educational and informational activities, institutional strengthening, etc.

We are not only interested in offering financial support. We wish to contribute by transferring the knowledge and experience that exist in our country, Denmark.

Unfortunately, given the situation of violence in which the region lives, the programme is only able to address itself to preventive aspects without also being able to tackle curative aspects. This would permit better reinsertion of the affected population into society, thereby favouring the processes of national reconciliation.

This is the framework within which this seminar begins today. It is organized by CIJEPRODH [The Centre for Investigation, Study and Promotion of Human Rights] of Guatemala in collaboration with RCT [Rehabilitation and Research Centre for Torture Victims], whose base is in Denmark.

The question arises quite often of why the Rehabilitation and Research Centre for Torture Victims was established in Denmark when human beings in that part of the world do not run the risk of torture.

This is correct, but Denmark receives refugees from countries where torture is practised on a grand scale. And there is a historical perspective from which Denmark never escapes.

Since my infancy, a few years after the Second World War, I remember how we talked about the torture which many people in the Resistance Movement suffered during the occupation of Denmark.

I also remember as a child listening to the story of my uncle Peter and the great impression it made on me. He was one of the leaders of the Resistance Movement who, on being captured, committed suicide because of the fear of being torturd. That something could be so terrible!

Please allow me to close by expressing the profound pleasure of my government for the award in the sister capital of Oslo of the Nobel Peace Prize to the distinguished representative of the indigenous people of the American continent, Ms. Rigoberta Menchi. We wish to express our congratulations to the Guatemalan people. We consider this award to be a just recognition of the struggle for human rights and for the indigenous people of Guatemala.

* Danish Ambassador to Central America
San José
Costa Rica

Training seminar in Guatemala – October/November 1992

In general, Central America has been renowned for military regimes that have strongly suppressed any attempt to promote democratic conditions and adherence to human rights. Fortunately, however, it now looks as if there is hope for improvement in the situation in many of the countries. In Guatemala, though, extrajudicial killings and disappearances are still commonplace. It is not difficult to imagine the enormous need for assistance for victims of human rights violations/state terrorism in the region as a whole.

In some countries, e.g. El Salvador, some groups have been able to create centres to help torture victims and their families. To work in such centres is not without danger. The workers receive death threats, and some centres have had to close down for periods.

The International Rehabilitation Council for Torture Victims (IRCT) has received more and more requests from doctors, psychologists, and social workers in Central America, Colombia, and Mexico; they wanted to know more about how best to help torture victims. Professor Bent Sørensen and Dr. Ole Vedel Rasmussen, IRCT, visited El Salvador and Guatemala in June 1991. In collaboration with the Danish Embassy for Central America, situated in Costa Rica, it was later decided to arrange a training seminar.

The first Central American seminar took place in Guatemala 31 October-4 November 1992 with more than 40 participants from the following countries: Colombia, Costa Rica, Guatemala, Mexico, Nicaragua, Panama, and El Salvador. The seminar was jointly arranged with CIJEPRODH [Centro de Investigación Estudio y Promoción de los Derechos Humanos] in Guatemala.

The teachers at the seminar were therapists with many years' experience from institutions attached to IRCT in Argentina, Chile, and Uruguay, as well as teachers from El Salvador and Canada.

The seminar programme was worked out from day to day by the invited teachers with the participants. Group work was used to a large extent, from early morning to late at night for five days. The subjects included:

- Torture, disappearances, and organized violence
- Physical and psychological sequelae of organized violence, and the principles of individual treatment
- Group therapy
- Doctors and torture
- Possibilities for financial support
- Visions of future work in the various countries.

At the final evaluation, the participants said how inspiring it had been to exchange experiences from neighbouring countries of the same region. They were also very satisfied with the teachers from the "old" rehabilitation centres.

The IRCT delegation, which was very impressed by the participants' interest and keenness, hopes that IRCT will be able to support future work in the region for the victims of organized violence. There is no doubt that it would be a great advantage if the various organizations in Central America could work together across their borders in the coming work. IRCT hopes that the seminar was the first of several regional training seminars to come — to support the urgently needed aid for the many direct and indirect victims of organized violence.

Ole Vedel Rasmussen
Medical Editor, TORTURE
Tratamiento de víctimas de la violencia organizada

La inauguración del primer seminario, Ciudad de Guatemala, octubre 1992

Por Klaus Nyholm*

La cooperación de Dinamarca con Centroamérica es relativamente reciente. Nuestra presencia en la región está orientada a contribuir al desarrollo de un orden social más democrático basado en el respeto fundamental por los derechos humanos.

Hasta ahora nuestra acción se ha concentrado en un programa bilateral con Nicaragua y algunos programas regionales, relacionados con nuestros principios básicos de cooperación. En los últimos años se han realizado elecciones y han surgido gobiernos civiles en toda la región centroamericana. Esto consideramos un importantísimo avance, pero es necesario trabajar por la profundización y consolidación de la democracia. En el campo de los derechos humanos, creemos necesario actuar en tres áreas fundamentales:

En primer lugar es necesario que la población conozca sus derechos fundamentales. Los derechos humanos no se circunscriben a los derechos políticos. Mientras exista hambre, desempleo y falta de servicios de salud y educación, los derechos humanos estarán vulnerados.

En segundo lugar no debe existir ningún tipo de discriminación sexual, racial o religiosa. Los distintos componentes de la sociedad deben tener garantizados su igualdad de derechos.

En tercer lugar debe existir un sistema de administración de justicia confiable, autónomo y eficiente.

En algunos países también no existe una delimitación entre la jurisdicción

Seminario de capacitación en Guatemala. Octubre/noviembre de 1992

En general Centroamérica se ha hecho famosa por los regímenes militares que con la fuerza han reprimido cualquier intento de promover la democracia y el respeto por los derechos humanos. Pero afortunadamente parece que ahora hay esperanza de que mejore la situación en muchos de los países de la región, aunque en Guatemala los asesinatos y desapariciones extrajudiciales todavía son moneda corriente. No resulta difícil imaginar la inmensa necesidad que existe en toda la región, de asistencia a las víctimas de violaciones de los derechos humanos/terrorismo del estado.

En algunos países, p.ej. El Salvador, hay grupos que han podido establecer centros para ayudar a las víctimas de la tortura y sus familias. Trabajar en estos centros supone un riesgo. Los empleados reciben amenazas de muerte, y algunos centros han tenido que cerrar por periodos.

El Consejo Internacional para la Rehabilitación de las Víctimas de la Tortura (IRCT) recibe constantemente solicitudes de médicos, psicólogos y trabajadores sociales de Centroamérica, Colombia y México que desean adquirir más conocimientos sobre cómo ayudar de la mejor manera a las víctimas. El profesor Bent Sørensen y el Dr. Ole Vedel Rasmussen, IRCT, visitaron El Salvador y Guatemala en junio de 1991. En colaboración con la embajada danesa para Centroamérica, situada en Costa Rica, fue decidido organizar posteriormente un seminario de capacitación.


Los participantes del seminario eran terapeutas con muchos años de experiencia en instituciones argentinas, chilenas y uruguayas vinculadas al IRCT, además de profesores de El Salvador y Canadá.

Cada día los profesores invitados, junto con los participantes, contribuyeron en la elaboración del programa diario del seminario. En gran medida se trabajó en grupos, durante 5 días desde la mañana temprana hasta muy entrada la noche. Los temas abordados fueron los siguientes:

Tortura, desapariciones y violencia organizada
Secuelas físicas y psíquicas de la violencia organizada, y los principios del tratamiento individual
Terapia grupal

Para los médicos y la tortura
Posibilidades de ayuda financiera
Las perspectivas del trabajo futuro en los diferentes países.

En la evaluación final los participantes expresaron su satisfacción por la inspiración que había sido para ellos poder intercambiar experiencias con los colegas de los países vecinos. Expresaron igualmente su satisfacción con los profesores de los centros de rehabilitación “viejos”.

La delegación del IRCT, muy impresionada por el interés y empeño de los participantes, quiere expresar su esperanza de que el IRCT sea capaz de apoyar en el futuro el trabajo en beneficio de las víctimas de la violencia organizada. Sin duda sería sumamente beneficioso que las varias organizaciones en Centroamérica pudieran colaborar a través de las fronteras. El IRCT espera que el seminario haya sido sólo el primero de muchos seminarios regionales, ya que sin duda servirán de soporte a todos los que se esfuerzan en preservar la ayuda urgente que precisan las víctimas directas e indirectas de la violencia organizada.

Ole Vedel Rasmussen
Medical Editor, TORTURE

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militar y la civil, y el poder militar no está sometido al poder civil. El programa de derechos humanos que patrocina Dinamarca, tiene por objeto apoyar la atención y mejoramiento de estos aspectos en los países, a través de las organizaciones estatales, organizaciones regionales y ONGs nacionales, en actividades educativas, de divulgación, de fortalecimiento institucional, etc.

Es nuestro interés poder brindar no sólo apoyo financiero. Deseamos contribuir con el apoyo de transferencias de conocimiento y experiencia existentes en nuestro país.

Lamentablemente, dada la situación de violencia vivida en la región el programa no solo debe atender aspectos preventivos sino también abordar aspectos curativos que permitan una mejor reinserción a la sociedad de la población afectada y favorezcan los procesos de reconciliación nacional.

En este marco se inscribe el seminario que hoy iniciamos el cual se realiza por El Centro de Investigación, Estudios y Promoción de los Derechos Humanos -CIEPRODH, de Guatemala en colaboración con el Centro de Rehabilitación de Víctimas de Tortura – RCT, con sede en Dinamarca.

Muchos tal vez se preguntarán pro qué rayos hemos establecido el Centro de Rehabilitación de Víctimas de Tortura en Copenhague. ¿Los seres humanos no se exponen a la tortura en su parte del mundo?

No, pero Dinamarca recibe refugiados de países donde la tortura se practica en gran escala.

Y si por otra parte se establece una perspectiva histórica, entonces Dinamarca tampoco se escapa.

Desde mi infancia, pocos años después de la segunda guerra mundial, recuerdo como hablábamos de la tortura que muchas personas de la resistencia soportaron durante la ocupación de Dinamarca.

Recuerdo todavía la gran impresión que me causó como pequeño oir la historia de mi tío Peter, uno de los Jefes de la resistencia, quien después de ser capturado se suicidó a causa del temor de ser torturado. ¡ Qué algo pudiera ser tan terrible!

Permitanme terminar expresando la profunda complacencia de mi gobierno por el otorgamiento en la capital hermana de Oslo del premio Nobel de la Paz a la distinguida representante de los pueblos indígenas del continente americano, Sra Rigoberta Menchu. Deseamos expresar nuestra felicitación al pueblo guatemalteco. Consideramos que este premio es un justo reconocimiento de la lucha por los derechos humanos y por el pueblo indígena de Guatemala.

* Embajador de Dinamarca
San José
Costa Rica

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**Children innocent victims of Argentine disappearances**

Long-ranging effects on youngsters removed from their families

The repression by the Argentine military dictatorship from 1976-1983 systematically hit thousands of people who had a different political viewpoint from that of the dictatorship. People were imprisoned in specially set up centres, they were tortured, they were murdered. These procedures, characteristic of the Latin American dictatorships, were carried out with the support of the armed forces and the whole state apparatus. The dictatorship had created its own legal basis but was also responsible for secret state terrorism. This included systematic removal of minors, i.e. children who were with their parents when they were arrested, or children who were born while their mothers were detained illegally.

These children were deprived of their true identity, their history, and their family. The task of finding them is one of the most serious problems left over from the gruesome violations of human rights committed previously in Argentina.

The disappearance of minors was part of a state plan. This has been revealed by the existence of illegal centres that were specially made for these children, and by the difference in the treatment given to disappeared pregnant women with respect to nourishment.

La Asociación Abuelas de Plaza de Mayo is a human rights organization in Argentina, the purpose of which is to search for disappeared minors. It was created in the aftermath of the searches for these children. It comprises grandmothers who tried to find their children and grandchildren through the courts and state authorities.

Since its creation, Abuelas de Plaza de Mayo has had hundreds of enquiries about disappeared minors. Most concern children who were born while their mothers were in detention. 54 children have been found, of whom 28 were returned to their real families, while 13 stayed with their foster families in agreement with their real families. These children keep in contact with their real family and have thus regained their identity. Seven of the 54 children were found dead.

The remaining cases are still being considered by the courts that deal with such enquiries. Some cases suggest that the minors are children of disappeared persons, but it is not known for certain to which family they belong. It has not been possible to carry out genetic tests because the people keeping the children are in flight from the legal authorities.

From an international point of view, the Argentine state has violated various sacred principles by this systematic removal of minors. It has violated article 1 of the Human Rights Declaration, adopted by the UN in 1948, which states that all people are born free, and article 16, which gives to the family, as an inviolable right, the protection of the state and society.

It has violated the principles laid down in the UN Human Rights Covenant of 1966 on economic, social, and cultural rights. Section 3, article 10, gives the family wide protection, including, as an inviolable right, special protection for mothers in the periods before and after birth.

It has violated the UN Covenant on civil and political rights, also of 1966. Article 23 states that "the family is the natural element and foundation of soci-
La acción represiva de la dictadura militar argentina durante el período 1976-1983 llevó adelante un plan sistemático contra los disidentes políticos utilizando para ello métodos como el establecimiento de centros ilegales de detención desapariciones forzadas de personas, homicidios y torturas. Esta acción represiva, común a las dictaduras latinoamericanas, se planificó utilizando los recursos de los estados mayores de las fuerzas armadas y el conjunto del aparato estatal. Por encima de la propia legalidad formal de la dictadura se desarrolló una actividad clandestina que se convirtió en una típica manifestación del terrorismo de Estado. Dentro de ese accionar represivo, se destaca como una de las particularidades de las violaciones a los derechos humanos en Argentina, la sistemática sustracción de menores. Se trata de menores que se encontraban con sus padres en el momento en que éstos fueron detenidos, o de menores nacidos cuando su madre estaba detenida ilegalmente.

A esos menores se les privó de su verdadera identidad, de su historia y de su familia, y la tarea de búsqueda de ellos constituye uno de los más graves problemas relacionados con la vigencia de los derechos humanos, hoy en Argentina.

La desaparición de menores respondió a una planificación de los órganos del Estado, hecho este que está demostrado por la existencia de centros ilegales destinados para niños, o el diferente tratamiento que tenían los desaparecidos que estaban embarazadas, por ejemplo, en lo que hace a alimentación. En la búsqueda de esos niños desaparecidos, en el encuentro de las abuelas que preguntaban por sus hijos y sus nietos en los Juzgados de Menores...
organismos del Estado, se formó la Asociación Abuelas de Plaza de Mayo, que es la institución de derechos humanos de Argentina cuya finalidad es la búsqueda de los menores desaparecidos.

Desde su creación, Abuelas de Plaza de Mayo, ha recibido centenares de denuncias sobre menores desaparecidos, la mayoría de las cuales están referidas a niños nacidos cuando su madre se encontraba detenida. Cincuenta y cuatro niños han sido encontrados, de estos, veintiocho fueron restituidos a su familia legítima, trece de estos niños permanecen, por acuerdo de su familia, con la familia de crianza, habiendo recuperado su identidad y manteniendo el contacto con su familia. Siete fueron encontrados muertos. Los restantes casos se encuentran en trámite ante la justicia, en donde se ha pedido su restitución. También hay casos de menores con relación a quienes los elementos probatorios indican que son hijos de personas desaparecidas, pero no se sabe con certeza a que familia pertenecen, sin que se hayan podido efectuar las pruebas genéticas por encontrarse prófugos de la justicia las personas que los tenían en su poder, quienes se han fugado con los niños.

Desde el punto de vista del derecho internacional el Estado argentino, en su acción sistemática de sustracción de menores, ha violado diversos principios consagrados por la comunidad internacional.

Ha violado el artículo 1 de la Declaración Universal de Derechos Humanos aprobada por la Asamblea General de las Naciones Unidas en 1948 que dice que todos los seres humanos nacen libres. También ha violado el artículo 16 de la Declaración que consagra el derecho de la familia a la protección de la sociedad y del Estado.

Ha actuado en contra de los principios establecidos en el Pacto Internacional de Derechos Económicos, Sociales y Culturales aprobados por la Asamblea General de las Naciones Unidas en 1966 cuya Parte III artículo 10 consagra “a más amplia protección” a la familia y “especial protección a las madres durante un período de tiempo razonable antes y después del parto”.

Ha vulnerado el Pacto Internacional de Derechos Civiles y Políticos aprobado en la misma fecha por la Asamblea General de las Naciones Unidas cuyo artículo 23 proclama que “la familia es el elemento natural y fundamental de la sociedad y tiene derecho a la protección de la sociedad y del Estado”.

En particular se ha actuado en contra de lo establecido por el artículo 24 de la misma declaración.

Después del restablecimiento del orden constitucional, el parlamento argentino ratificó la Convención Americana sobre Derechos Humanos, Pacto de San José de Costa Rica, cuyo artículo 17 consagra la protección de la familia, y que en su artículo 18 establece que “toda persona tiene derecho a un nombre propio y a los apellidos de sus padres o al de uno de ellos”. De estos derechos se encuentran privados los menores que aún continúan desaparecidos.

El 27 de setiembre de 1990 la Argentina ratificó la Convención Internacional por los Derechos del Niño, luego Ley Nacional 23.849.

Desde el punto de vista del derecho interno la dictadura militar argentina violó diversos artículos de la Primera Parte, Declaraciones, Derechos, y Garantías de la Constitución Argentina.

Restablecido el estado de derecho las medidas adoptadas por el Estado para localizar a los menores no ha dado resultados satisfactorios.

En la errónea política sobre derechos humanos aplicada por el gobierno argentino se destacan dos leyes sancionadas con el fin de evitar el juzgamiento de los delitos cometidos durante la represión. Se trata de la Ley 23.492 llamada de Punto Final que establece un plazo de prescripción de la acción penal y de la Ley 23.521 de Obediencia Devida que limita el juzgamiento de los delitos a los altos mandos. A ellos se suma el Indulto Presidencial que dejó en libertad a estos últimos.

El 12 de octubre de 1992 la Comisión Internacional de los Derechos Humanos declaró violatorio de la Declaración y la Convención Americana de Derechos Humanos a estas tres decisiones gubernamentales en cuanto obstaculizaron y finalmente cancelaron el juicio y castigo a los responsables de gravísimos delitos, incluyendo tortura, desaparición, detención arbitraria y asesinato. Esta decisión ha sido acompañada por distintos sectores de la comunidad nacional e internacional preocupados por las graves consecuencias de la impunidad para los derechos humanos y la consolidación democrática.

En cuanto al efecto de la impunidad desde el punto de vista psicológico de estos niños y estas niñas que han sido criados – han vivido un período importante de sus vidas – con una identidad falsa, con una historia mentida y sometida – cuando no a malos tratos, torturas y a una violencia manifiesta, a la violencia y a la tortura psicológica que el cautiverio y el engaño suponen dado que viven sujeto a un vínculo montado sobre la desaparición de los padres de origen, la falta de esclarecimiento, de verdad y justicia los somete a un permanente interrogante sin respuesta.

Pero no solo los niños y las niñas secuestradas y apropiadas han tenido y tienen que soportar los efectos traumáticos de esta violencia. Los familiares que los buscaron inclaudicablemente, y los que todavía llevan adelante esa búsqueda infructuosa, no han permanecido al margen de los peores sufrimientos y presentan síntomas de todo tipo, secuelas de los estragos producidos por la represión y el terrorismo de Estado.

Las Abuelas de Plaza de Mayo lograron el apoyo de grandes sectores sociales lamentablemente los esfuerzos para localizar a estos niños y niñas para restituirlos a sus familias legítimas, se vieron entorpecidos por la vigencia de un sistema jurídico-legal anticuado y resistentes a estos actos de justicia, cuando no por la vigencia, en este período de precariedad democrática, de sectores de poder que responden a las fuerzas militares; las mismas que impusieron el terrorismo de Estado. El mismo miedo residual y los efectos traumáticos de la dictadura militar entre los profesionales (jueces, psicólogos, médicos) que supuestamente deberían dar asistencia a esos niños, a estas niñas y a sus familiares, hicieron el resto; lo necesario para obstaculizar denunciar y perturbar los objetivos buscados.

No obstante lo que hasta ahora se consiguió – la localización y restitución de niños, la obligación de someter a la justicia a los culpables del único delito que la Ley de Punto Final, de la Obediencia Devida y del Indulto no blanquea – ha tenido un profundo impacto en toda la sociedad instaurando una nueva manera de poner en práctica principios éticos y morales.

Esos niños y esas niñas ya no lo son; ahora son adolescentes en plena pubertad, o jóvenes que atraviesan el difícil proceso de acceso a la producción y a la reproducción (inicio de su vida sexual, activa e incorporación en el mercado laboral). El pasaje a la adolescencia de estos niños, se presenta como de alto riesgo psicológico, en función, justamente, de las terribles experiencias por las que han atravesado en momentos muy tempranos de la conformación de su psiquismo.

Abuelas de Plaza de Mayo
Buenos Aires, Argentina

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Weakened democracy


The report is a reissue of the one published in August 1987 with an update on the status of human rights in Argentina. This publication is still a considerable contribution to the illumination of certain aspects of impunity.

The first issue of this report describes the process by which Argentine society under democratic rule tried to come to grips with the legacy of human rights violations during the military dictatorship in the years 1976-1983. This report covered governmental decisions, judicial actions and initiatives from civil society and promulgation of the Due Obedience Law.

This first report further describes the democratic debate that preceded and accompanied some very worthy governmental decisions seeking to provide accountability for past crimes and — as it is said in the introduction — also reports on the slow and seemingly inexorable retrenchment of men of arms and their civilian allies to resist the process of truth and justice and to demand political vindication for what they consider a victory over subversion.

Since the situation in Argentina has not remained unchanged in the 3 years since the publication, the editors now want to update the information gained during these years. One of the reasons for this is the existence of impunity, which explains and fosters the persistence of egregious violations of human rights despite the new direction of the hemisphere away from authoritarianism towards states with governments based on free elections.

The second part of the report deals with the status of human rights in Argentina at the time of the issue of the report. The authors take up the following items:

The issuing of presidential pardons for further investigations or prosecutions in spite of domestic and international pressure, governmental attitude towards human rights problems, military uprising, an exposition of the la Tablada episode (an army installation near Buenos Aires), an attack by a group of armed men and women in a one-day battle (they were trapped inside when police surrounded the barracks and 28 of them died in the end), some examples of attacks on the independence of the judiciary, and finally a referring to the US policy.

The authors state that the heightened consciousness in Argentine society, expressed in the unequivocal result of opinion polls about the pardons, is the best hope for democracy in Argentina; they agreed with the majority of the Argentine people that crimes against humanity should not go unpunished.

Governments are obliged by international law to investigate, prosecute, and punish crimes against humanity. Politically, punishment is necessary to establish a democracy where there are no privileged and particularly no privileged criminal defendants. That is to say, a democracy where no one is above the law. Such crimes must be punished as an expression of respect by society for the victim.

But steps in the wrong direction have objectively weakened democracy in Argentina by making it seemingly unable to settle disputes over criminal actions without regard to the power and influence of the perpetrators. As the authors stress: Democracy in Argentina is not in an immediate danger, but the hopes and aspirations of common men and women on its potential have been dealt a severe blow.

Henrik Marcussen
Medical Editor, Torture

Democracia debilitada


El informe es una reedición del que se publicó en agosto de 1987, con una actualización de la situación de los derechos humanos en la Argentina. Esta publicación sigue siendo una contribución importante para dilucidar ciertos aspectos de la impunidad.

La primera edición de este informe describe el proceso en el que la sociedad argentina, ya bajo régimen democrático, se esforzó por esclarecer a fondo las consecuencias de las violaciones de los derechos humanos acaecidas durante la dictadura militar entre 1976 y 1983. Este informe se refería a las decisiones gubernamentales, acciones judiciales e iniciativas civiles, y a la promulgación de la Ley de Obediencia Debida.

Este primer informe describe además el debate democrático que precedió y acompañó a algunas decisiones gubernamentales muy valiosas, encaminadas a rendir cuenta de los crímenes del pasado, y —como se dice en la introducción— el informe también se refiere al lento y, al parecer inexorable atrasamiento de los militares y sus aliados civiles que se oponen al proceso en pos de la verdad y la justicia, y reivindican la justificación política de lo que ellos consideran un triunfo sobre la subversión.

Dado que la situación en la Argentina no ha permanecido inalterada en los 3 años y medio transcurridos desde la publicación, los editores desean actualizar ahora la información recopilada durante estos años. Una de las razones es el hecho de la impunidad, que explica y nutre la persistencia de ignominiosas violaciones de los derechos humanos, a pesar de que los países del hemisferio han tomado otro rumbo alejándose del autoritarismo y convirtiéndose en estados con gobiernos basados en elecciones libres.

La segunda parte del informe describe la situación de los derechos humanos en la Argentina en el momento de editar el informe. Los autores abordan los siguientes puntos:

Los indultos presidenciales para impedir ulteriores investigaciones o enjuiciamientos a pesar de la presión nacional e internacional, la actitud del gobierno respecto a los problemas de los derechos humanos, la sublevación militar, una exposición del episodio de La Tablada (instalación militar cerca de Buenos Aires), un ataque por un grupo de hombres y mujeres armados, en una
batalla que duró un día (fueron atrapados cuando la policía rodeó las barricadas, y 28 de ellos dejaron allí la vida), algunos ejemplos de ataques a la independencia del poder judicial, y finalmente una referencia a la política de los EE.UU.

Los autores afirman que la mayor conciencia en la sociedad argentina, tal como se expresó en el resultado inequívoco de las encuestas realizadas sobre los indultos, es la mejor esperanza para la democracia en Argentina; los autores coinciden con la mayoría de la población en que los crímenes contra la humanidad no deben permanecer impunes. El derecho internacional obliga a los gobiernos a investigar, enjuiciar y castigar a los responsables de crímenes contra la humanidad. Políticamente el castigo es necesario para poder establecer una democracia sin privilegios para nadie, y menos para los acusados criminales. Es decir, una democracia en que nadie esté por encima de la Ley. Tales crímenes deben castigarse como una muestra del respeto de la sociedad para con la víctima.

Pero, objetivamente, la democracia argentina se ve debilitada al no ser capaz de resolver las disputas sobre los actos criminales sin tomar en consideración el poder y la influencia de los perpetradores. Como lo puntualizan los autores: la democracia argentina no se halla en peligro inmediato, pero las esperanzas y aspiraciones que guardaban los argentinos a pie con respecto a su potencial, han sufrido un duro golpe.


diario de Panamá y El Salvador

“The never ending”. [lo que nunca cesa]. Por Graham Russell. 1992. 102 páginas. Ilustraciones por Caleli y Sandra. Una publicación privada: A.P. 189-1002, San José, Costa Rica. Precio US$ 4 ó 500 colones. Este libro the never ending es un resumen de los compendios del diario del autor que relata de los primeros dos años que estuvo trabajando por la causa de los derechos humanos en todo Centro América con CODEHUCA [la Comisión de los Derechos Humanos de Centro America].

En recientes viajes a Panamá y El Salvador (marzo, mayo y junio de 1992) el participó en un grupo de estudios de economía y derechos sociales y viajó a diferentes lugares en ambos países. Descubrió una gran y aparentemente creciente pobreza. Las estadísticas de la mayoría de los países de la región muestran un creciente sufrimiento económico y social, una diferencia cada vez mayor entre los pocos ricos y los muchos pobres. Mientras se hacen numerosos esfuerzos en la región para terminar con las violaciones sistemáticas y previsibles de los derechos humanos gran parte de la pobreza y violencia que nunca cesa, continúa existiendo. Estas mismas son las condiciones que están detrás de la represión y violencia histórica de la región provocadas por “las primeras naciones”, por El Fondo Monetario Internacional y World Bank. Los dibujos en blanco y negro expresan tanto desesperanza y represión como esperanza.

Medicine betrayed


The book, which has taken two years to research, reveals how doctors in some countries co-operate with torturers by administering drugs, alerting them to the particular weaknesses of victims' abilities to withstand torture.

The experiences of Amnesty International, the British and US branches of Physicians for Human Rights, the Johannes Wier Foundation, etc., have helped, particularly with respect to assessing the reliability of the information provided.

Medicine betrayed is an excellently prepared book. It covers a delicate analysis of a topic which contradicts the core of the medical profession and which is shameful for the persons involved, namely, the physicians who are indifferent to and even contribute to torture.

The book allows the examination of an important link, the physician, in the prevention of torture. It should increase the insight of the physicians into their role in and against torture, should encourage them in their attitudes against it, and thus make an important contribution to the prevention of torture.

I think that it will be most useful for the Medical Associations of the various countries to translate it into their own languages.

Veli Lök, MD, Professor
Corresponding Editor, Torture
Izmir, Turkey
BOOK REVIEWS

Violation of medical neutrality


This book comprises the proceedings of an international conference in June 1991 on Violation of Medical Neutrality at Limburg University, Maastricht, The Netherlands. The chapters deal particularly with international humanitarian law and violations of it, including a few examples from the 1980s.

The main chapter is the excellent review of the conference’s topic by Professor Frits Kalshoven, Leiden University. After outlining the history of international humanitarian law from the 1960s, he described the Geneva Conventions of 1949 and the Additional Protocols adopted in 1977.

Three chapters deal with the violations; unfortunately, several other examples from the present time could be added.

I recommend this book to all centres engaged in human rights, mainly because of the sound and comprehensive exposé of the legal aspects.

Jørgen Cohn
Professor of Paediatrics
University of Tromsø
Tromsø, Norway

Selected list of publication

received in the RCT-International Documentation Centre with reference to the question of impunity


Algunas consideraciones sobre los efectos psicologicos de la impunidad en parejas efectuadas directas por la represion politica/Aguilar, Elina. – Buenos Aires (Argentina): 6 p.


Salud mental: la comunidad como apoyo/Beinstein, Carlos Martin ; Rierr, Francisca. – Barcelona: Virus editorial, 1992. – 218 p.; ill.


Argentina y la tortura: obligacion de juzgar a los responsables/Rogers, George C. – Buenos Aires: Centro de Estudios Legales y Sociales (CELS), 1990. – 78 p. – (Cuadernos del CELS: vol. 1, no. 2).


Culpables para la sociedad – impunes por la ley/Abuelas de Plaza de Mayo ... et al. – Buenos Aires: Abuelas de Plaza de Mayo ... et al., 1988. – 122 p.; ill.


Proclamation against impunity

A Chilean initiative

Santiago, 24 June 1993

In view of the latest alarming events in Chile, and the pressure finally to secure impunity for those responsible for the serious human rights violations during the military regime, we, the undersigned groups and organizations, feel it our duty vis-à-vis public opinion to express the following:

1. Our institutions represent to a large extent the history and conscience of the Chilean people with respect to the tragic human costs of state terrorism. We know its political sequaeae – social, legal, moral, and psychosocial – and for this reason we turn vehemently against any attempt to use political and administrative tricks to weaken the efforts to obtain justice and truth which our society needs so much to create a social togetherness within the frame of a humanistic ethic with respect for life.

2. The present efforts to secure impunity as quickly as possible are an expression of certain sectors of society that want to disregard international legal agreements, the people's sovereignty, and the Chileans' reasonable wish for reconciliation based on a full investigation of all events and the rule of justice.

3. We believe that any solution of the problems concerning human rights must take place within the frames expressed by the Minister of Justice in President Aylwin's government when he said: "The efforts to make the process flexible or to appoint extra ministers cannot be interpreted as an amnesty law or a final solution" And he went on: "There will be justice and we hope to gather together all information about the past so that the relatives will be able to find all the corpses of those who disappeared".

With respect to the past, we want to bring to mind the fact that, according to international law, crimes against humanity, however far in the past, cannot be given amnesty.

4. We want to make clear our refusal to accept proceedings that severely violate fundamental human rights, and thus to underline our decision to continue actively in the defense of human rights.

All this is the background to our decision to unite the undersigned groups in one organization – Grupo de compromiso por la verdad, la justicia y la paz, which will give the whole Chilean society all the necessary information to show how dangerous impunity is in its character, and how it destroys the fight for truth and justice. We want to take part in the creation of a strong movement to develop ideas and social efforts to spread a solid understanding of human rights, an inevitable and invincible precondition for the consolidation of democracy.

Gruppo de compromiso por la verdad, la justicia y la paz

CINTRAS – Centro de Salud Mental y Derechos Humanos
CODEPU – Comité de Defensa de los Derechos del Pueblo
FASIC – Fundación de Ayuda Social de las Iglesias Cristianas
PISEE – Protección a la Infancia Dañada por los Estados de Emergencia
SERPAJ – Servicio Paz y Justicia
AFDD – Agrupación de Familiares de Detenidos Desaparecidos
AFEP – Agrupación de Familiares de Ejecutados Políticos

Declaración Publica contra la impunidad

Una iniciativa chilena

Santiago, 24 de junio de 1993

Las instituciones y agrupaciones firmantes, ante los inquietantes acontecimientos de los últimos días que presionan para consumar de manera definitiva la impunidad para los responsables de las graves violaciones a los derechos humanos perpetradas durante el régimen militar, se hacen un deber en expresar la opinión pública lo siguiente:

1. Nuestros organismos son depositarios de una significativa parte de la memoria histórica del pueblo chileno en lo relativo a los trágicos costos humanos que significó el terrorismo de estado. Conocemos sus implicaciones políticas, sociales, jurídicas, morales y psicosociales, razón por la cual rechazamos enérgicamente cualquier intento de utilización de procedimientos político-administrativos con el fin de debilitar los objetivos de verdad y justicia que la sociedad requiere imperiosamente para construir la convivencia social en los marcos de una ética humanista y de respeto a la vida.

2. Los esfuerzos hoy en curso para materializar la impunidad en el corto plazo corresponden a algunos sectores de la sociedad, interesados en desconocer los compromisos jurídicos internacionales, la soberanía ciudadana y el legítimo anhelo de los chilenos de reconciliarse en base al esclarecimiento pleno de los hechos y a la aplicación de justicia.

3. Creemos que toda solución al problema de los derechos humanos debe darse dentro de los marcos señalados por el Ministerio de Justicia del Gobierno del Presidente Aylwin, quien declaró que: “Las medidas para agilizar los procesos o designar ministros suplentes para su conocimiento no pueden ser interpretadas como una ley de amnistía o punto final”; y que “Se va a hacer justicia y esperamos que se redúnan los antecedentes para que las personas sepan dónde están los cuerpos de los detenidos desaparecidos”.

En relación a lo anterior recordamos que a la luz del derecho internacional los crímenes contra la humanidad son inamnislables e imprescriptibles.

4. Queremos manifestar nuestro rechazo por los procedimientos que atentan contra los derechos fundamentales de las personas y ratificamos...
LETTERS TO THE EDITOR

La determinación de seguir contribuyendo activamente a la defensa de los derechos humanos.

Nuestro propósito fue apoyar la creación de un fuerte movimiento de pensamiento y acción social, cuya preocupación sea el desarrollo de una sólida conciencia de los derechos humanos, condición imprescindible para la consolidación de la democracia.

Grup de compromiso per la verdad, la justícia y la paz

CINTRAS – Centro de Salud Mental y Derechos Humanos

Croatian Medical Bulletin
not influenced by Government

I read with great pleasure Dr. Diana Cox’ review (TORTURE vol. 3, No. 1) of War Supplement 2 of the Croatian Medical Journal (CMJ, vol. 33, April 1992), but I would like to add some remarks to it. Dr. Cox stated that “the publication of the Croatian Medical Journal is supported in part by the Croatian Ministry of Science, Technology and Informatics and this may be reflected in the political views expressed by some authors”. No, this was not the case.

The ministry supports, with small insufficient amounts of money, all scientific/professional journals published in Croatia, but it does not in any way influence the policy of the journals, except by insisting on world standards of production. I must say proudly that this was so even in the darkest times of communist oppression and Serbian domination (which worked here along the same lines and through the same mechanisms).

In a moderately developed country, with somewhat less than five million inhabitants, it is really impossible to run a scientific journal on a purely commercial, financially independent basis, i.e. without any help from the government or a very generous donor. The scientific community is too small and poor to yield a sufficient number of subscribers and advertisements to enable a journal of this profile to live solely off its own income. I believe this holds for most similar journals in countries like ours.

I am aware that the articles in the CMJ War Supplement 2 differed with respect to their authors’ attitudes to the martial developments in Croatia during the Serbian aggression in 1991/92. Croatia was passing through frightful times. It also required particular care not to hurt or insult people who passed through or witnessed unseen, unthinkable atrocities. Those who have not had such experiences can scarcely realize how painful it is for the authors when they are asked to reduce emotion in texts which document the deaths of children, patients, colleagues, and other innocent victims.

Matko Marušić, MD, PhD
Editor-in-Chief
Croatian Medical Journal
Zagreb, Croatia

The Ukrainian heritage
from the former Soviet Union

19 January 1993

It cannot be said that torture and public executions exist as official policy in the Ukrainian state. But at the same time the heritage of the former Soviet Union is inevitably present, in the following manifestations in particular:

1. Use of punishment cells with extremely high or extremely low ambient temperature, with the purpose of changing the behaviour of the prisoners or of obtaining confessions at interrogation;
2. The so-called dedowscheena or privileged position of soldiers who serve in the army for more than one year, i.e. the tradition in the Soviet army that recruits “joining the army life” were subjected to physical ill-treatment and humiliation by the soldiers whose term of army service was expiring;
3. Physical ill-treatment and humiliation of children in orphanages and other child welfare institutions, particularly the closed ones.

Reports and complaints about all these violations appear regularly in the Ukrainian press and in private petitions to officials.

The outlook for the disappearance of the violations is rather vague. It is related primarily to the ineffectiveness of the laws in the territories of the former Soviet Union (legal nihilism of the population, weakness of power structures, mass corruption of the administration, etc.). Of no lesser significance, from our point of view, is the shortage of background educational programmes on human rights, both in high schools and at universities. Thus, even in the colleges at which there is professional training of students whose future activities may entail the risk of participation in torture, basic international documents that give correct orientation for the future professionals (declarations, conventions, professional codes of ethics, primary international standards, etc) are not studied. Unfortunately, this is the case with medical training. The few organizations and professional associations that exist in Ukraine to protect human rights are rather too weak to change the situation effectively.

Semyon Gluzman, Kiev, Ukraine
Instruction to authors

General remarks
TORTURE is grateful for small news items as well as articles on everything connected to torture and the fight against it. However, it is advisable to contact the editors before writing the article! The editors will then consider the material for possible publication.

The editors retain the customary right to style and if necessary shorten material accepted for publication.

Your manuscript should as possibly be prepared in correspondence with the uniform requirements for manuscripts submitted to biochemical journals. This requirements - the Vancouver system - are in details described in Br Med J 1991; 302: 338-41 or N Engl J Med 1991; 334: 424-8.

Book reviews
If you want to make a review of a pertinent book with relation to torture, please remember to inform about the publisher, number of pages and the price, preferably in US$ or UK£. The review should in the shortest possible way give a personal evaluation of the book - a mere description of the contents and some quotations are not sufficient.

Summary of requirements
Please type the manuscript on white bond paper, A4 (212 x 297 mm), with margins of at least 40 mm. (~1 in). Type only on one side of the paper. Use double-spacing throughout, including headline, text, acknowledgements, references, tables, and legends for illustrations.

Please notice that we seldom publish more than two pages on the same subject, corresponding to appr. 250-300 lines with 52 characters per line. A good illustration (photo, drawing or table) is always very welcome.

If the manuscript is written on personal computer with DOS compatibility, please send the disc (5.25 or 3.5 in) with the manuscript formatted in ASCII or DOS.

The manuscript should be accompanied by a covering letter with the name, the address, and telephone and/or fax number of the corresponding author. The letter should give any additional information that may be helpful to the editor.

Details of address of author, a single qualification such as MD or PhD, and full professorship are published as a footnote to papers, and this information should be provided on the title page of the manuscript. A full address should be provided for the corresponding author.

References
Should be numbered in the order in which they appear in the text.

Articles in journals
Standard journal article
(List all authors, but if the number exceeds six give six followed by et al).

Organization as author

No author given

Books and other monographs
Personal author(s)

Editor(s), compiler as author

Organization as author and publisher

Chapters in a book

Other published material
Newspaper article

Audiovisual

Legal material
Impunity

Many articles in the present issue of TORTURE deal with the problems of impunity, or impunidad, i.e. the fact that, even in countries where dictatorship has given way to democratic rule, many torturers and other violators of human rights go unpunished. In some countries, e.g. Chile, this results from the introduction of new amnesty laws, while in others, e.g. India, the same thing happens, though less overtly. The lack of punishment here may be referred to as de facto impunity; for example, even though torturers may be taken to court, they can profit from the legal system to obtain postponement after postponement so that there is no hearing, let alone sentence.

Wishing to stimulate debate on impunity, and bearing in mind that the VI International Symposium on Torture and the Medical Profession will be held in Buenos Aires 20-22 October 1993, the Editorial Board has printed these articles in both Spanish and English.

Impunidad

Muchos de los artículos de esta edición de TORTURE aclaran la problemática del tema impunidad. Se trata del hecho de que muchos verdugos y otros criminales que violan los derechos humanos - aun después de haberse restaurada la democracia - se libran de ser castigados. En algunos países - como por ejemplo en Chile - ocurre mediante las leyes de amnistía mientras que en otros países - como la India - sucede más clandestinamente. En los casos mencionados se puede hablar de impunidad de facto en donde los verdugos - a pesar de ser llevados a los tribunales nunca son castigados, por ejemplo porque se aprove-chan del sistema judicial para hacer innumerables demoras, de manera que no se los puede interrogar y como consecuencia tampoco pronunciar sentencia.

Los artículos sobre este tema se publicaran en español e inglés. Esto se debe sobre todo al simposio en Buenos Aires, el 20-22 de octubre de 1993: VI Simposio Internacional - La Tortura: Un desafío para los médicos y otros profesionales de la salud. Es la esperanza de la redacción que podamos de esta forma estimular el debate sobre el tema impunidad.

Victim Compensation Boards.

All enquiries should be directed to:

International Secretariat

Prof. G. Kirchhoff

Richard Wagner Strasse 101

D-4050 Mönchengladbach 1

Germany

Tel: (49) 2161 87295

Fax: (49) 2161 186327

Adelaide, Australia

August 21-26, 1994

World Society of Victimology in Association with the Australasian Society of Victimology: The 8th International Symposium on Victimology.

All enquiries should be directed to:

International Secretariat

Prof. Amnon Carmi

Congress President

C/O Stier Group Ltd.

28 Hayezira St.

Ramat Gan 52521, Israel

Tel: (972) 3 7516422

Fax: (972) 3 7516635

The Rehabilitation and Research Centre for Torture Victims is an independent, humanitarian, non-political organization established in 1982 to help victims of torture and to contribute to the prevention of torture. Its main objectives are to rehabilitate persons who have been subjected to torture, to rehabilitate their families, to instruct Danish health professionals in the examination and treatment of persons who have been subjected to torture, and to carry on research into the nature, the extent and the consequences of torture.

The International Rehabilitation Council for Torture Victims is a private non-profit foundation, created in 1986 by the RCT. The objectives of the foundation are, on an international basis, to support research into all aspects of torture, to support education and training of health professionals and of other relevant personnel in the medical, social, legal and ethical aspects of torture, and to serve as an international clearing house for information about torture activities.