Chapter 1 : Torture and ill-treatment in Moldova including Transnistria : Impunity prevails

Torture and ill-treatment can disrupt or destroy them. Torture and other cruel, inhuman or degrading treatment can destroy the social fabric of a community or society. Abuse generates hatred; it can generate deep resentment within communities and feed a cycle of revenge.

They took me to their office. They slapped me on the cheeks repeatedlyâ€¦. But these interrogators are not in a position to listen to what I tell them. They beat me again with the black stick and slapped me again. I stayed in that room until midnight. They took me back to the cell and then took another guy. On the second day of interrogationsâ€”the beating was worse. What they want is a confession. There they are interrogated, and, for many, at Maekelawi they suffer all manner of abuses, including torture. Police investigators at Maekelawi use coercive methods on detainees amounting to torture or other ill-treatment to extract confessions, statements, and other information from detainees. Detainees are often denied access to lawyers and family members. Depending on their compliance with the demands of investigators, detainees are punished or rewarded with denial or access to water, food, light, and other basic needs. This report documents human rights abuses, unlawful investigation tactics, and detention conditions in Maekelawi between and For the report Human Rights Watch interviewed more than 35 former detainees of Maekelawi and their family members. Although Human Rights Watch was not able to visit Maekelawi, preventing first-hand observation of conditions and interviews with current detainees, researchers cross-checked information provided by former detainees, who were identified through various channels and interviewed individually. Allegations of arbitrary detention, torture, and other ill-treatment at the hands of Ethiopian police and other security forces are not new. But since the disputed elections, the Ethiopian government has intensified restrictions on freedom of expression, association, and assembly, deploying a range of measures to clamp down on dissent. These include arresting and detaining political opposition figures, journalists, and other independent voices, and implementing laws that severely restrict independent human rights monitoring and press freedom. Since a new law, the Anti-Terrorism Proclamation, has become a particularly potent instrument to restrict free speech. In this context, Maekelawi has become an important site for the detention and investigation of some of the most politically sensitive cases. Maekelawi has four primary detention blocks, each with a nickname, and the conditions differ significantly among them. Several former detainees described to Human Rights Watch how they were transferred from one block to another in the course of their investigation, with treatment and conditions of detention linked to cooperation with the investigators. In Chalama Bet detainees have limited access to daylight, to a toilet, and are on occasion in solitary confinement. In Tawla Bet access to the courtyard is restricted and the cells were infested with fleas. Maekelawi officials, primarily police investigators, have tortured and ill-treated detainees by various methods. Detainees described to Human Rights Watch being repeatedly slapped, kicked, punched, and beaten with sticks and gun butts. Some reported being forced into painful stress positions, such as being hung by their wrists from the ceiling or being made to stand with their hands tied above their heads for several hours at a time, often while being beaten. Detainees also face prolonged handcuffing in their cellsâ€”in one case over five continuous monthsâ€”and frequent verbal threats during interrogations. Some endured prolonged solitary confinement, which can amount to torture. Detainees also described dire conditions of detention, including inadequate food, severe restrictions on access to daylight, poor sanitary conditions, and limited medical treatment. Conditions are particularly harsh during initial investigations. The coercive methods, exacerbated by the poor detention conditions, are used by the authorities at Maekelawi to maximize pressure on detainees to extract statements, confessions, and other informationâ€”whether accurate or notâ€”to implicate them and others in alleged criminal activity. These statements and confessions are in turn sometimes used to coerce individuals to support the government once released, or as evidence against them at trial. Former detainees and their relatives told Human Rights Watch that they were routinely denied access to legal counsel and family members during the initial weeks of their custody. Some were held incommunicado throughout months of detention. The absence of a lawyer during interrogations increases the likelihood of abuse, hinders any documentation of ill-treatment and torture by

investigators, and limits chances of obtaining redress before the courts. In this way police investigators at Maekelawi obstruct basic national and international legal safeguards protecting persons in custody such as those regulating arrest and detention and protection from the use of forced confessions as evidence at trial. Detainees have limited channels for redress. Courts that have received allegations of detainee torture and ill-treatment at Maekelawi have on occasion failed to take adequate steps to address the allegations. Several former detainees told Human Rights Watch they kept silent about their treatment in court, fearing reprisals from investigators. Others said they had never appeared before a court. Human rights monitoring of all detention locations in Ethiopia, including Maekelawi, by government agencies is limited and independent monitoring of any kind is insufficient. Representatives from the government-affiliated Ethiopian Human Rights Commission and other officials have visited Maekelawi and have raised some concerns about detention conditions in private and public communications. However, former detainees told Human Rights Watch that commission representatives were accompanied by Maekelawi officials, and the visits have not resulted in concrete improvements in their situation. Over the past decade Human Rights Watch and other domestic and international human rights organizations have documented patterns of serious human rights violations, including arbitrary arrest and detention, ill-treatment, and torture in many official and unofficial detention facilities throughout Ethiopia. The government has invariably dismissed these findings or conducted investigations that lack credibility. However, the Ethiopian government has taken some positive steps in recent years to comply with its international human rights treaty reporting requirements and develop human rights policies on paper. The government has also drafted a national human rights action plan for The draft seen by Human Rights Watch contains some measures that could help improve detention conditions and treatment of pre-trial detainees and convicted prisoners. The plan rightly identifies insufficient access to legal counsel during pre-charge detention, insufficient complaint mechanisms, and inadequate access to food, medical care, and other services as challenges that need to be addressed. The Ethiopian authorities, particularly the federal police, should urgently adopt concrete measures to address these persistent concerns in Maekelawi and other facilities. Ensuring that suspects enjoy the protections of due process, including the right to understand the reason for their arrest, and access to legal counsel and relatives from the outset of their detention would help reduce abuses. Prosecutors and judges should also proactively monitor the treatment of persons in custody and investigate allegations of torture and ill-treatment without official interference or obstruction. At the same time, they should also ensure protection for detainees who dare to speak out about their treatment. The authorities should also allow unfettered and unannounced access to Maekelawi and other detention centers throughout the country to independent Ethiopian and international monitors, including human rights and humanitarian organizations, members of the diplomatic community, and United Nations UN and African Union AU human rights mechanisms such as the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on Arbitrary Detention. Additional resources can alleviate some of the poor detention conditions in facilities like Maekelawi, but real change in the treatment of detainees needs to come from the highest levels of government. Crucial for this is a judiciary that has the independence to receive and act on complaints from those in custody and hand down impartial justice. And to deter politically motivated prosecutions in the first place, parliament should substantially amend the Charities and Societies Proclamation and the Anti-Terrorism Proclamation. Recommendations To the Ethiopian Government Issue public orders to the federal police and other law enforcement personnel deployed at Maekelawi to cease unlawful detention, torture, and ill-treatment of all persons in custody. Promptly, transparently, and impartially investigate all allegations of ill-treatment and ensure that all personnel implicated in custodial abuse, regardless of rank, are appropriately disciplined or prosecuted. Significantly improve legal safeguards at Maekelawi and other detention centers, including ensuring the right to access a lawyer from the outset of a detention, presence of legal counsel during all interrogations, and prompt access to family members and medical personnel. Ensure that no statement or confession obtained through torture or other coercion is admitted as evidence at trial. Take necessary steps to prevent and punish any interference by officials in efforts by prosecutors and judges to investigate allegations of torture and ill-treatment. Promptly release from custody and drop any charges against all persons arbitrarily detained, particularly those arrested

for the peaceful exercise of their fundamental rights, such as freedom of expression, association, and assembly. Close all facilities at Maekelawi that do not meet international standards as set out under the UN Standard Minimum Rules for the Treatment of Prisoners. Take all necessary steps to end incommunicado detention and prolonged solitary confinement at Maekelawi and other detention facitilities. Allow independent oversight of Maekelawi and other detention facilities and prisons by providing access by independent human rights monitors and humanitarian organizations to engage in unhindered monitoring of conditions and private meetings with detainees. Offer a standing invitation to relevant United Nations and African Union human rights mechanisms including the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on Arbitrary Detention to visit Ethiopia. Immediately establish complaints mechanisms within Maekelawi and other detention facilities as set out in the draft National Human Rights Action plan. Ensure that the federal police, public prosecutors, and other law enforcement personnel receive appropriate training on interrogation practices that adhere to international human rights standards. To the Ethiopian Judiciary Ensure that complaints of mistreatment during detention are promptly and impartially investigated by a body independent of the police. Government bodies that disregard or block judicial orders regarding mistreament of detainees should be appropriately sanctioned. Enforce measures to ensure that detainees who bring complaints about mistreatment are protected from reprisals. Ensure that statements, confessions, and other information obtained through torture or other ill-treatment are not admitted as evidence. In cases of a claim that evidence was obtained through coercion, the authorities must provide information to the judiciary about the circumstances in which such evidence was obtained to allow an assessment of the allegations. To the Ethiopian Federal Police Commission Immediately release those detainees in Maekelawi or other detention facilities who have not been brought promptly to court to be charged. Ensure that suspects who have been charged receive a fair and public trial without undue delay. Ensure that pre-trial detention is used as an exceptional measure in accordance with international law. Enhance monitoring of the conduct of federal police investigators and other officers at Maekelawi. Conduct frequent spot checks, interview privately and confidentially detainees about their treatment and conditions of detention, and impartially investigate allegations of ill-treatment and torture. Take measures to end incommunicado detention and prolonged solitary confinement at Maekelawi and other detention facitilities. Publish statistics of complaints brought by detainees regarding mistreatment in Maekelawi and other federal detention centers and publicly report on complaints filed, including by providing data on the number of police suspended, prosecuted, or otherwise disciplined for unlawful conduct. To the Ethiopian Human Rights Commission Carry out frequent, unannounced visits to Maekelawi and other detention centers, privately and confidentially interview detainees, and follow-up on allegations of mistreatment. Systematically monitor hearings of detainees held in Maekelawi and follow-up with relevant authorities on complaints of mistreatment, including possible reprisals at Maekelawi or after their transfer to other facilities. To the Donor Community Publicly and privately raise concerns with Ethiopian government officials at all levels regarding torture, ill-treatment, and other human rights violations in Maekelawi and other detention facilities in Ethiopia. Press especially the federal affairs minister, the federal police commissioner, and the justice minister to adopt policies to end the abuse and ensure those responsible are held to acccount. Publicly urge prompt, transparent, and impartial investigations into allegations of abuse in detention facilities. Actively seek unhindered access to Maekelawi and other detention facilities for international human rights and humanitarian organizations and for diplomats. Urge Ethiopian officials to invite relevant UN and AU human rights mechanisms, including the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on Arbitrary Detention to visit Ethiopia. Methodology In the course of monitoring the human rights situation in Ethiopia over the past decade, Human Rights Watch has frequently received allegations of serious abuses against detainees at the Federal Police Crime Investigations Sector, commonly known as Maekelawi, in Addis Abbaba. For this report, Human Rights Watch interviewed 30 men who were detained in Maekelawi between and , including two Swedish journalists Johan Persson and Martin Schibbye held in Maekelawi in , and about five family members and lawyers of current or former Maekelawi detainees. The former detainees were interviewed individually. Interviews were carried out in person and via telephone

between April and August in various locations, including Ethiopia, neighboring countries that host Ethiopian refugeesâ€”Kenya, Uganda, Djibouti, South Africaâ€”and the United States and Sweden. Interviewees were identified through a wide variety of sources and channels, including on the recommendation of former detainees. The interviews took from one hour to more than 10 hours. All the information in this report was based on at least two and usually more than two independent sources; where allegations were not corroborated by at least two independent sources we have excluded those statements from this report. Although this report is based primarily on interviews, we also consulted a variety of secondary material that provided valuable corroboration of details or patterns described in this report. This material includes previous Human Rights Watch research, including dozens of unpublished interviews with former detainees who experienced similar abuses in Maekelawi or other detention facilities prior to , as well as information collected by other credible independent human rights investigators. None of the interviewees were offered any form of compensation for agreeing to participate in interviews.

Chapter 2 : Torture and Ill-Treatment in Ethiopiaâ€™s Maekelawi Police Station | HRW

In this case the Court established the subjective nature of torture and ill-treatment, stipulating that violations of human physical and psychological integrity have 'several gradations and embraces treatment ranging from torture to other types of humiliation or cruel, inhuman or degrading treatment with varying degrees of physical and.

Views of 6 November Keywords: On 9 June , he was arrested in Lima. Conditions of detention at this prison are said to be inhuman. The author submits that for a period of nine months her husband was in solitary detention for 23 and a half hours a day, in a cell measuring 2 by 2 metres, without electricity or water; he was not allowed to write or to speak to anyone and was only allowed out of his cell once a day, for 30 minutes. The author further submits that the temperature in the prison is constantly between 0 and minus 5 degrees, and that the food is deficient. Such a body consists of judges who are allowed to cover their faces, so as to guarantee their anonymity and prevent them from being targeted by active members of terrorist groups. Polay Campos was convicted and sentenced to life imprisonment; it is claimed that his access to legal representation and the preparation of his defence were severely restricted. In this connection, the author forwarded a newspaper clipping showing Victor Polay Campos handcuffed and locked up in a cage. The author claims that, during the journey from Yanamayo to Callao, her husband was beaten and administered electric shocks. During the first year of his prison sentence, he was not permitted visits by any friends or relatives, nor was he allowed to write to anyone or to receive correspondence. A delegation of the International Committee of the Red Cross has been allowed to visit him. This action was dismissed, according to the author, on an unspecified date. The author submits that the above situation reveals that her husband is a victim of violations by Peru of article 2, paragraph 1, and articles 7, 10, 14 and 16 of the Covenant. Polay Campos and his current conditions of detention. It did not, however, provide information about Mr. Polay Campos had been submitted upon his transfer to the Callao Naval Base. Examination on the merits [? Although this allegation was not addressed by the State party, the Committee considers that the author did not adequately substantiate her allegation concerning the beating and the administration of electric shocks during the transfer to Callao. It accordingly makes no finding on articles 7 and 10, paragraph 1, of the Covenant on this count. On the other hand, it is beyond dispute that during his transfer to Callao Mr. Polay Campos was displayed to the press in a cage: Furthermore, he was unable to receive and to send correspondence. Polay Campos for a period of a year and the restrictions placed on correspondence between him and his family constitute inhuman treatment within the meaning of article 7 and are inconsistent with the standards of human treatment required under article 10, paragraph 1, of the Covenant. Polay Campos has received and continues to receive, as well as his entitlements to recreation and sanitation, personal hygiene, access to reading material and ability to correspond with relatives. No information has been provided by the State party on the claim that Mr. Polay Campos continues to be kept in solitary confinement in a cell measuring two metres by two, and that apart from his daily recreation, he cannot see the light of day for more than 10 minutes a day. The Committee expresses serious concern over the latter aspects of Mr. The Committee finds that the conditions of Mr. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts as found by the Committee constitute violations of article 7 and article 10, paragraph 1, of the Covenant as regards Mr. Inhuman treatment and punishment: Furthermore, it listed factors that have to be taken into account when determining the severity of treatment such as the age, sex and state of health of the victim. In addition, the Court stressed the non-derogability of the right to freedom from torture, regardless of the situation, stating that Article 3 strictly prohibits torture and inhuman or degrading punishment or treatment regardless of what the victim has done. Article 3 provides for no exceptions, in contrast with most of the principles of the Convention [? The Court has repeatedly specified that the prohibition applies even in the most difficult of circumstances, such as those involving aggression by terrorist groups or large-scale organised crime. France , Application No. In the view of the Court this treatment could only have been deliberately inflicted; indeed, a certain amount of preparation and exertion would have been required to carry it out. It would appear to have been administered with the aim of obtaining

admissions or information from the applicant. In addition to the severe pain which it must have caused at the time, the medical evidence shows that it led to a paralysis of both arms which lasted for some time [? The Court considers that this treatment was of such a serious and cruel nature that it can only be described as torture. In more recent cases the Court has broadened the scope of what can be considered torture. The following case is important as it developed a wider definition of torture than the Court had applied before. The origin and the filing of the complaint 8. On 25 November Mr Selmouni was arrested following surveillance of a hotel in Paris [? Mr Selmouni was held in police custody from 8. He was questioned by police officers [? The court cell officers took him to the casualty department at Jean Verdier Hospital in Bondy at 3. The medical observations made by the casualty department read as follows: On examination, several superficial bruises and injuries found on both arms. Bruises on outer left side of face. Bruise on left hypochondrium. Marks of bruising on top of head. Chest pains increase with deep respiration. Neurological examination shows no abnormalities. On 2 December the applicant was examined by Dr Nicot [? Says sight impaired in left eye. On 7 December Dr Garnier, the expert appointed by the investigating judge, examined the applicant at the prison. Mr Selmouni made the following statement to the doctor: There were no problems at that stage. I was taken to the hotel where I was living. One of the six plain-clothes policemen then hit me in the area of my left temple. I was then taken to Bobigny police station. At about 10 a. I was taken up to the first floor, where about eight people started hitting me. I had to kneel down. One police officer pulled me up by my hair. Another policeman hit me repeatedly on the head with an instrument resembling a baseball bat. Another one kept kicking and punching me in the back. The interrogation continued non-stop for about an hour. In the night I asked to be examined. I was taken to hospital, where I had head and chest X-rays. I was hit again at about 9 p. When I arrived at Fleury, I underwent a medical examination. The conclusion of the report is as follows: He presents lesions of traumatic origin on his skin that were sustained at a time which corresponds to the period of police custody. These injuries are healing well. Merits of the complaint 1. The applicant complained that he had been subjected to various forms of ill-treatment. He stressed that his allegations had neither varied nor been inconsistent during the entire proceedings and submitted that the expert medical reports and the evidence heard from the doctors who had examined him established a causal link with the events which had occurred while he had been in police custody and gave credibility to his allegations. The Commission considered that the medical certificates and reports, drawn up in total independence by medical practitioners, attested to the large number of blows inflicted on the applicant and their intensity. The Court considers that where an individual is taken into police custody in good health but is found to be injured at the time of release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused, failing which a clear issue arises under Article 3 of the Convention [? Accordingly, the Court is of the opinion that, with regard to the complaint submitted to it, those facts can be assumed to have been established. The Court considers, however, that it has not been proved that Mr Selmouni was raped, as the allegation was made too late for it to be proved or disproved by medical evidence [? The gravity of the treatment complained of The applicant submitted that the threshold of severity required for the application of Article 3 had been attained in the present case. He asserted that, aged 49, he had never been convicted or even arrested and that he stood by his refusal to admit any involvement in the drug trafficking being investigated by the police. He contended that the police officers had deliberately ill-treated him, given their constant questioning by day and, above all, by night. The applicant submitted that he had been subjected to both physical and mental ill-treatment. In his view, it was well known that such police practices existed, and that they required preparation, training and deliberate intent and were designed to obtain a confession or information. He argued that, in the light of the facts of the case, the severity and cruelty of the suffering inflicted on him justified classifying the acts as torture within the meaning of Article 3 of the Convention. The Court reiterates that Article 3 enshrines one of the most fundamental values of democratic societies. Even in the most difficult circumstances, such as the fight against terrorism and organised crime, the Convention prohibits in absolute terms torture and inhuman or degrading treatment or punishment. Unlike most of the substantive clauses of the Convention and of Protocols Nos. In order to determine whether a particular form of ill-treatment should be qualified as torture, the Court must have regard to the distinction, embodied in Article 3, between this notion and that of inhuman or

degrading treatment. As the European Court has previously found, it appears that it was the intention that the Convention should, by means of this distinction, attach a special stigma to deliberate inhuman treatment causing very serious and cruel suffering [? The Court finds that all the injuries recorded in the various medical certificates [? The course of the events also shows that the pain or suffering was inflicted on the applicant intentionally for the purpose of, inter alia, making him confess to the offence which he was suspected of having committed. Lastly, the medical certificates annexed to the case file show clearly that the numerous acts of violence were directly inflicted by police officers in the performance of their duties. The acts complained of were such as to arouse in the applicant feelings of fear, anguish and inferiority capable of humiliating and debasing him and possibly breaking his physical and moral resistance. The Court therefore finds elements which are sufficiently serious to render such treatment inhuman and degrading [?

Chapter 3 : What is torture and ill-treatment? | Icelandic Human Rights Centre

The ICRC uses the broad term " ill-treatment " to cover both torture and other methods of abuse prohibited by international law, including inhuman, cruel, humiliating, and degrading treatment, outrages upon personal dignity and physical or moral coercion.

Although it is not a representative sample, it does provide a valid indication of the frequency of the reported phenomena. The Legal Framework International law absolutely prohibits torture and ill-treatment. States may not derogate from this prohibition even in the harsh circumstances of fighting terrorism. The responsibility, in case of violation, rests not just with the state, but also with the individual abusers who may face prosecution in other countries. In its ruling from September , the HCJ determined that the ISA did not have legal authority to use "physical means" against interrogees. However, it was established that ISA agents who abused interrogees in "ticking bomb" situations may avoid prosecution. This ruling implicitly legitimized these severe acts, contrary to international law, which does not acknowledge any exceptions to the prohibition on torture and ill-treatment. The "Softening Up" of Detainees Prior to Interrogation The witnesses reported being subjected to beating, painful binding, swearing and humiliation and denial of basic needs at the hands of security forces personnel from the moment of arrest until being transferred to the ISA. About two thirds of the witnesses 49 of 73 reported that they had undergone at least one of these forms of abuse, which are defined by international law as ill-treatment and may reach the level of torture. This research did not examine the question whether this ill-treatment was intended to "soften up" the detainees for the ISA interrogations. It is, however, its practical outcome. Routine Ill-treatment The ISA interrogation system includes seven key aspects which harm, to varying degrees, the dignity and bodily integrity of the detainees. This injury is intensified considering the combined exercise of these aspects during the interrogation period which, for the witnesses in the sample, lasted an average of 35 days: These methods were employed against the vast majority of witnesses included in the sample. These measures are not inevitable side-effects of the necessities of detention and interrogation, but are rather intended to break the spirit of the interrogees. As such, they deviate from the HCJ ruling and constitute, under international law, prohibited ill-treatment. Moreover, under certain circumstances, these measures may amount to torture. The sample witnesses described seven such methods: Sleep deprivation for over 24 hours 15 cases ; "Dry" beatings 17 cases ; Painful tightening of handcuffs, sometimes while cutting off blood flow 5 cases ; Sudden pulling of the body while causing pain in the hand joints which are cuffed to the chair 6 cases ; Sudden tilting of the head sideways or backwards 8 cases ; The "frog" crouch forcing the detainees to crouch on tiptoes accompanied by shoving 3 cases ; The "banana" position - bending the back of the interrogee in an arch while he is seated on a backless chair 5 cases. These measures are defined as torture under international law. Their use is not negligible, even if not routine. The HCJ did rule that ISA interrogators who abused interrogees in "ticking bomb" situations may be exempted from criminal liability, but this only when the ill-treatment was used as a spontaneous response by an individual interrogator to an unexpected occurrence. In practice, all evidence points to the fact that "special" methods are preauthorized and are used according a preset regulations. Cover up and Whitewashing Mechanisms The ill-treatment and torture of Palestinian detainees by soldiers and ISA interrogators do not take place in a void, but rather under the auspices of the Israeli law enforcement system. Most cases of ill-treatment of Palestinians by soldiers are not investigated at all, and few of those that do, culminate in an indictment. In many cases, this is due to various institutional failings such as delays in instigation investigations. Additionally, it may be assumed that without concerted and proactive efforts on the part of the authorities, the chances of detainees submitting complaints regarding injuries they have suffered during their arrest are quite low. The ISA interrogation system is significantly aided by the HCJ, which serves as a rubber stamp on orders which regulate the isolation of the interogees from the outside world. The HCJ did not accept even one of the hundreds of petitions brought before it against such orders. The HCJ also routinely allows the ISA to conceal from the detainees the very fact that an order against them has been issued as well as the legal proceedings taking place in their case. All this with the purpose of increasing the psychological pressure employed against them.

Chapter 4 : Project MUSE - Torture and Ill-Treatment Under Perceived: Human Rights Documentation and

Torture and ill-treatment, predominantly towards those accused of political crimes, is not a new phenomenon in Turkey. Several organisations have documented such abuses in the past.

Expert insight into EU law developments Tuesday, 14 April The difference between torture and other ill-treatment: However, in my view this is incorrect, and indeed the recent judgment of the European Court of Human Rights in Cestaro v. The judgment Mr Cestaro was among the protesters surrounding the G-8 summit in Genoa, Italy from 21st to 22nd July para. During the two days of incidents, hundreds of protesters and police forces were injured and one young person died paras. From the 21st to 22nd July , Mr Cestaro and other protesters were housed in a school, which was stormed by the Italian police at that time. Mr Cestaro and others were brutally ill-treated while peacefully and legally lodging in the school para. Mr Cestaro was subjected to repeated kicks and beatings with the tonfa, which is considered a potentially lethal weapon. As a result, Mr Cestaro suffered multiple fractures and a permanent impediment in his right arm and right leg para. The ECtHR ruled that the treatment by the police amounted to torture. Next to this, there are four more elements of the UNCAT torture definition namely 1 the act must be inflicted intentional, 2 the act must cause severe, physical or mental, pain or suffering, 3 the treatment must be inflicted by or at the instigation of or with the consent of or acquiescence of a public official or other person acting in an official capacity and 4 pain arising out of lawful sanctions is not included. The issue at hand is that the prohibited purpose requirement is mistaken for the only criterion which is able to differentiate between torture and less serious ill-treatment. This confusion arose because of various reasons. This was interpreted to mean that the purpose requirement is the distinguishing element between torture and inhuman or degrading treatment or punishment while the other elements remain static. Further, the ECtHR has never classified a treatment which lacked the purpose requirement as torture. Although these reasons sound compelling, the interpretation was wrong and the prohibited purpose requirement is not the sole decisive factor as is shown below. Both sections elucidate that the prohibited purpose criterion is a vital but not the only requirement to differentiate torture from inhuman or degrading treatment or punishment. In the former section, the Court did not highlight the ostensible uniqueness of the prohibited purpose requirement. Rather, the Court showed that different criteria of the treatment can be decisive in classifying an act as torture. Then, the Court referred to cases in which it found a combination of the gravity of the treatment and the intentional element such as in Aksoy v. Turkey and Yaman v. In this context the ECtHR noted that all these cases contained a purpose to obtain information, to punish somebody or to intimidate the person para. This is the first time the ECtHR mentioned the element of the prohibited purpose. The ECtHR further elucidated that it put a special weight on the severity of the pain in some cases such as Aslan v. Turkey or on the arbitrariness of the violence in other cases such as in Romanov v. Towards the end of this section the Court explained that it did not classify some police actions as torture such as in Krastanov v. Bulgaria as the prohibited purpose element was missing and because the pain was inflicted for a short duration only para. This constitutes the second time when the Court mentioned the purpose criterion. The ECtHR clearly revealed that various components can determine whether a particular treatment constitutes torture or inhuman or degrading treatment or punishment: The Court did not classify these examples as exhaustive and one can assume that other factors of the treatment as well can trigger a distinction between torture and other forms of ill-treatment. In its reasoning, the Court did not explicitly state which element of the conduct by the police was decisive for classifying the violence as torture and not inhuman or degrading treatment. The Court put forward that the pain was inflicted by the police with the purpose to punish and to retaliate and with the aim to cause pain and suffering para. The prohibited purpose by the police was hence to punish and retaliate. This is the first and last time that the ECtHR referred to the purpose requirement in this section. The Court noted that there is no denying that the pain and suffering was of particular seriousness and cruelty para. As mentioned above, the applicant suffered from a permanent impediment resulting out of the beatings he received. The Court emphasised that Mr Cestaro did not resist in any way and that the infliction of pain was thus disproportionate para. Although the mission of the police was

to search the school, the public officials immediately used force paras. Instead of trying to enter the building peacefully and negotiate with the protesters, the police stormed the building by breaking down the gates and promptly used violence against the protestors para. The Court then went on and stressed that the police tried to justify its actions by arguments such as the protection of the nation was at stake para. It is indeed true that the 21st July was marked by heavy violence through the looting and devastation of the city of Genoa para. One can imagine that the police was under paramount pressure and strain throughout the whole day. The Court, however, correctly observed that the situation in the school was entirely different as the protesters were calm and did not resist the violence of the police para. Based on these grounds the Court reached the conclusion that the treatment by the police amounted to torture as understood in Article 3 ECHR para. The ECtHR put forward several reasons for classifying the treatment by the police as torture but it did not single out one specific factor. It seems that the immediate, disproportionate and serious infliction of pain was vital for the Court to arrive at its decision. The prohibited purpose criterion was not the triggering criterion in this case.

Chapter 5 : World Report Israel and Palestine | Human Rights Watch

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In particular, what forms of torture and ill-treatment are made legible through human rights documentation? We argue human rights documentation techniques can systematically under perceive the extent of torture and ill-treatment among people living in poverty. The article is based on research in Kenya, Bangladesh, and Nepal, and sets out five key predispositions in documentation techniques that result in implicit discrimination. Inevitably, human rights practitioners have only been able to document the experiences of a small minority of survivors. However, we argue the experiences of people living in poverty have disproportionately and systematically failed to enter the world of human rights documentation. Documentation acts as the eyes and ears of the human rights movement. The techniques and assumptions of documentation help set the parameters for how human rights organizations and practitioners perceive and act in the world. This article, therefore addresses the question of how human rights documentation seeks to know and respond to harm and injustice. Furthermore, how does this restrict the range of the people in whose names human rights organizations can act, the violations they can respond to, and the justice projects they can pursue? Documentation is always a challenge, and the documentation of torture and ill-treatment particularly so. Torture can be deliberately inflicted in ways that leave few visible tracesâ€”leaving behind little that can be straight forwardly documented with a high level of evidential probity. In his now classic text, "Rural Poverty Unperceived," Robert Chambers identified a number of obstacles [End Page] that prevent development practitioners from "seeing" rural poverty. Similar processes take place within the world of human rights. Paraphrasing Chambers, the central argument of this article is that domestic and international human rights organizations face obstacles in perceiving the form and extent of torture and ill-treatment among the poor. These obstacles originate in both the form of torture and ill-treatment, and the condition of those who are not themselves among the poor and do or, most significantly, do not perceive torture and ill-treatment amongst the poor. Nevertheless, the vulnerability of such people to the threat of torture and ill-treatment is over determined. For example, informal housing and livelihood strategies, such as street hawking or sex work, mean that they can be on the margins of legality. The result is that poverty is not only a problem in relation to social and economic rights, but is also deeply linked to violations of civil and political rights as well. The class based assumptions of human rights regimes have long been noticed. However, the point here is not simply that a focus on civil and political rights ignores the gross injustices of poverty. Rather the point is that, even within the limited definitions of torture and ill-treatment adopted by the international human rights system, the day-to-day practices of human rights documentation can exclude people living in poverty. The international human rights movement has had many notable achievements in the struggle against torture and ill-treatment. The last four decades has seen the creation of regional and international conventions, ever more detailed definitions of torture, and the establishment of clear legal responsibilities [End Page] for states to prosecute perpetrators and assist in the rehabilitation of survivors. However, there remain a number of key blind spots in the ways in which human rights organizations document torture and ill-treatment. This article outlines how the assumptions and institutional capacities of human rights organizations can result in at least five linked conceptual and institutional predispositions. First, torture is treated as an "extraordinary" event, fundamentally different from more mundane and everyday encounters with public officials. This can leave to one side the "mundane" and "everyday" nature of much of the torture and ill-treatment experienced by impoverished populations. Second, limitations in institutional capacities mean that the organizations that carry out the documentation of torture and ill-treatment are often geographically and socially distant from low-income neighborhoods. This means that human rights organizations can find it hard to reach the poorest survivors. Third, documentation focuses on places of detention rather than the "street," missing other forms of violence that mark the interaction between people living in poverty and public officials. Fourth, there is a predisposition towards prosecution and reparations, where it is often assumed the goal of documentation is legal accountability. Yet, in everyday

practice, if not in aspiration, many people living in poverty can prioritize protection above accountability. There is, therefore, a danger that survivors who do not seek legal accountability will be missed. Fifth, torture survivors are easiest to document if they fit into a series of basic assumptions about what it means to be a "good victim. However, it is their interlocking combination that results in particularly acute forms of under-perception when it comes to the experience of the poor. Several caveats are necessary at this stage. First, the arguments presented below are based on research on documentation in three low-income urban neighborhoods in Kenya, Nepal, and Bangladesh. However, they are potentially applicable to other poor communities, where access to human rights organizations can be equally, if not more limited. Second, the predispositions identified are not present in the same intensity at all times and in all places. Locally specific histories of human rights work can result in different assumptions and prioritiesâ€”as well as attempts to combat these predispositions. Crucially, these tendencies become increasingly intense as you move from the "street", to national human rights organizations, and on to regional and international mechanisms. Third, at an individual level many human rights practitioners are also both implicitly and explicitly aware of the gaps outlined in this article. This article focuses on institutional forms of knowledge: We are not arguing for a formal redefinition of torture and ill-treatmentâ€”that is an argument for another place. All of the forms of "everyday" violence we are describing can be said to fit within the definition of torture and ill-treatment as set out in the UN Convention Against Torture. As such, we are not calling for new definitions, but for existing definitions to be more fully applied in a greater range of places. The article is divided into four further parts. The next section sets out the research methods upon which the paper is based. We then address the political, economic, and legal context within which documentation takes place in the three case studies. The penultimate and longest section discusses the five predispositions. We conclude with some practical implications of our argument. These three countries were chosen because all three countries have been characterized by relative and absolute poverty, historically high levels of state led violence, and active human rights communities. The research consisted of two stages. The first stage focused on exploring the techniques and assumptions used by human rights organizations in the documentation of torture and ill-treatment. This meant mapping those organizations involved in documentation. Interviews were then carried out [End Page] with key actors in these organizations, focusing on how they identified survivors, the procedures they used for documentation, and the purposes to which documentation was put. Eighty interviews were carried out in total. These interviews were complemented by the analysis of between ten and fifteen cases in each country, focusing on attempts to document the experiences of torture survivors. The second stage of the research involved a victimization survey in low-income neighborhoods in Nairobi, Kathmandu, and Dhaka. We carried out three household surveys using multi-stage sampling methods. The surveys covered exposure to torture and ill-treatment, perceptions of risk of torture and ill-treatment, and justice seeking behavior. These quantitative surveys were then followed up by extended qualitative interviews of around twenty to thirty respondents in each case study in order to explore specific cases in more detail, as well as the wider meanings and implications associated with incidents of torture and ill-treatment. The combination of these research techniques allows us to produce different perspectives on experiences of torture and ill-treatment, and triangulate against the information produced through human rights documentation. It is important to acknowledge the limitations of the survey and interview based research. As human rights documentation has its blind spots, so too does social science work. One key limitation of the survey, for example, was excluding questions about domestic and sexual violence. These questions would have raised multiple ethical and methodological issues, above and beyond those already raised by the surveys. There are, therefore, forms of torture and ill-treatment that are inevitably under perceived by the research. The point though is not to say that social science research produces a more complete picture. Rather, it is to hold human rights documentation and social science research up alongside each other, to reflect on what they reveal about one another, and to be transparent about what is left out. Documentation is never carried out in vacuum, or in an ideal and universal form. Rather, the aims, methods, and assumptions are shaped by specific histories. Kenya has a vibrant and relatively free human rights community, which confronts large-scale abuses linked to the wars on crime and security. Nepal has a large human rights community whose working patterns and relationships were

established in the transitional aftermath of the Maoist insurgency. Kenyan politics has been characterized by multiple fault lines around religion, ethnicity, and class. However, despite the ratification of the UN Convention Against Torture CAT , there is not currently any specific law that criminalizes torture as a specific crime or sets out reparations for torture survivors. The often brutal and indiscriminate responses by the police and security forces to crime and terror have also undermined some of the formal constitutional protections. However, the documentation of "security" related cases is widely perceived by human rights actors to be a more politically sensitive issue than the documentation of "criminal cases. Almost nothing escapes this bipolar conflict between the two parties who have taken turn to rule Bangladesh post-independence. Like Kenya, Bangladesh is marked by widespread poverty and inequality. About 30 percent of the population lives below the poverty line. According to the Torture and Custodial Death Act of , passed as a response to the ratification of CAT, police officers under suspicion of torture will be suspended from service, liable to at least five years in prison, and fined. However, due to pressure from the police, the Act is currently under review. The NGO sectorâ€”including human rights groupsâ€”is caught up in the struggle between the two political parties. Two of the legacies of the insurgency are a large-scale international presence and a complex and active civil society. Violence has declined over [End Page] the past decade, but state institutions remain weak. Torture though is not currently a specific criminal offence. The legacy of the civil war has resulted in a large number of human rights organizations involved in the documentation of torture, primarily in relation to past and present political conflicts. Despite the very different political, economic, and legal contexts described above, what all three countries have in common is that their human rights communities are all relatively well integratedâ€”albeit in different waysâ€”into the international human rights system. As such, the UN system can set financial incentives, influence individual career trajectories, and produce its own normative priorities. At one level, international treaties provide the broad parameters of much documentation work, both in terms of objectives and definitions. Many of their publications and websites are in English rather than Nepali, Bangla, or Swahili. Above all, nearly all torture documentation work is funded by international donors. The often messy work of documenting "mundane" and "everyday violence" amongst the poor, which we describe below, makes it harder to record clear outcomes. International human rights institutions might not necessarily dominate the day-to-day work of many human rights organizations, although they do play a very significant role in setting the parameters for what is widely accepted as "successful" human rights work. In Kenya, one leading anti-torture activist described the main objective of their work as being "to make the [End Page] country live up to its commitments under the Convention Against Torture. We use Geneva here as a short hand to signify the fact that the UN human rights system is not a free-floating universal institution, but has specific locations within the global political economy. The "Geneva focus" helps fuel the tendencies described below, and means that they are most intense when you get nearer to the heart of the UN system. Torture as an Extra-Ordinary Event The first predisposition is a widespread focus on torture as "extraordinary.

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Torture and ill-treatment is used both to extract information and force confessions, but also as a form of punishment for failure to comply with the investigators demands. Torture.

He takes up complaints by torture victims and sends communications to Governments; he addresses specific factual and legal issues related to torture and other cruel, inhuman, and degrading treatment and, most importantly; upon the invitation of Governments, he carries out fact-finding missions to specific countries. These country visits aim to establish a dialogue with the Government and to assess the situation of torture and ill-treatment in a given country. These include full freedom of inquiry, unrestricted freedom of movement throughout the country as well as confidential interviews with victims, witnesses, human rights defenders, and non-governmental organizations NGOs. Because torture takes place behind closed doors, torture fact-finding and the assessment of the general conditions of detention require unannounced visits to places of detention and individual and confidential interviews with persons deprived of their liberty. It is essential that interviews with detainees only take place with their informed consent and that necessary precautionary measures against reprisals are taken. The mission reports that are drafted on the basis of information received from the Government, NGOs, lawyers, and detainees are presented and discussed in the Human Rights Council. Additionally, the reports are essentially background materials for the Universal Periodic Review of the Human Rights Council and can serve as an important advocacy tool for NGOs and other actors. The mandate is to investigate and assess the situation of torture on a global level, and to submit respective reports both to the Council and the General Assembly. Since special procedures mandate holders work as independent UN experts on a part time and voluntary basis, the means at their disposal to achieve the ambitious aim of assessing the situation of torture and ill-treatment in all countries of the world, of identifying the root causes of this practice and of developing effective strategies to eradicate and prevent torture and ill-treatment are, of course, limited. They established inter alia the methods of work 3 and formulated general recommendations of the SRT 4 which, together with the Resolutions adopted every year by the Human Rights Council and the General Assembly, lay the foundations for my activities. First of all, I receive through the Office of the UN High Commissioner for Human Rights OHCHR in Geneva on a daily basis a variety of complaints by victims of torture, their families, non-governmental organizations NGOs , and other sources alleging torture, ill-treatment, inhuman prison conditions, and other violations of human rights falling within the scope of my mandate. I respond to these allegations by regularly sending urgent appeals and allegation letters to a large number of Governments in all regions of the world. In these communications, I ask that the Governments investigate these allegations, stop, and prevent these practices and report back to me on the outcomes of their investigations. The effectiveness of this communication procedure depends on the reliability of the sources of allegations and the political will of Governments to take these complaints seriously. In certain cases, urgent appeals saved the victims from further torture, corporal punishment, or executions, whereas in other cases Governments do not even feel a need to respond to my appeals. Overall, the effectiveness of the individual communication system is fairly limited, and much needs to be done by Governments and other actors to turn this procedure into an effective tool for eradicating and preventing torture. Secondly, in my reports, public speeches, press releases, and media interviews, I address a variety of legal and factual issues related to my mandate in order to raise the awareness of the international community and recommend actions to be taken by Governments, United Nations bodies, and other stakeholders. Other issues raised relate to the definition of torture and its distinction from other forms of cruel, inhuman, or degrading treatment or punishment CIDT , corporal punishment, inhuman prison conditions, solitary confinement, the rights of victims of torture to a remedy and adequate reparation, and the principle of non-admissibility of evidence extracted by torture. Further areas of concern include the obligation of States parties to the UN Convention against Torture CAT to criminalize torture with adequate sanctions and to establish universal jurisdiction, as well as the need to prevent torture by ratifying the Optional Protocol to the Convention against Torture OPCAT and by establishing effective and truly independent national preventive mechanisms NPM entrusted with the task of

conducting regular and unannounced visits to all places of detention. In view of time and budgetary constraints, only a very limited number of States can actually be visited during the six year period that this mandate can be exercised by each mandate holder. Since my appointment in December , I have so far visited the following countries: Preparation of Country Missions Like other special procedures, I can only carry out a mission to a specific country upon invitation by the respective Government. Of course, I travel to many countries in my capacity as SRT on the invitation of universities, human rights institutes, inter-governmental agencies and NGOs for the purpose of teaching, participating in conferences, seminars, and meetings, or discussing certain issues related to my mandate. Sometimes, as in the case of the United States, Denmark, France, Germany, Sweden, Switzerland, the United Kingdom, Jordan, Zimbabwe, and the Gambia, I made use of this opportunity to meet governmental officials or representatives of inter-governmental organizations and discuss future missions or other issues. But for a fact-finding mission, I need a specific invitation. A growing number of Governments issue standing invitations to all special procedures. If I wish to visit any of these countries, I, in principle, just respond to the standing invitation, meet the ambassador in Geneva and agree on a date. Sometimes, this is done in a fairly short period of time. For example, the mission to Denmark and Greenland was prepared within a period of little more than one month. One advantage of the Human Rights Council, as compared with the former Commission, is that States are expected to make certain pledges and commitments as a precondition to being elected to the Council. One of the typical commitments is to cooperate with special procedures. As with standing invitations, I can make use of these commitments by asking members of the Council to invite me. Since the mandate of the SRT is a global one, I can, of course, request an invitation from any Government in the world. Such requests are based on various grounds. If I receive a particularly high number of individual complaints or similar information indicating that torture is widespread in a certain country, I may take this as a reason to request an invitation. This was, for example, the case in with respect to Nepal at the time of the climax of the armed conflict between the King and the Government on the one hand, and the Maoists and democratic parties on the other hand. The Government of Nepal reacted swiftly, and the mission was organized within a few months. But my requests should not be interpreted as an indication of the widespread practice of torture in the respective country. I am also interested in finding and reporting about best practices in relation to prison conditions and the prevention of torture. Again, Denmark provides a good example of a country where I was not confronted with a single allegation of torture and where the prison conditions are of a high standard and can serve in many respects as a model for other States. This is the case, for instance, in post-conflict situations and during a transition stage towards democratization. Similarly, my missions to Paraguay, Togo, Nigeria, Indonesia, and the Republic of Moldova were encouraged by certain signs of the willingness of the respective Governments to eradicate torture, such as the ratification or plans of ratification of the OPCAT and the establishment of independent national preventive mechanisms with the task of carrying out preventive visits to all places of detention. While the time between my announcement to a Government that I intend to carry out a mission and the actual conduct of the mission might be as short as 1 or 2 months, negotiations with Governments may also take several years. My predecessor, Theo van Boven, had already arrived at the point of concluding an agreement on all outstanding issues and on concrete dates in autumn before the Government again postponed the mission. Soon after my appointment, I started another round of negotiations and finally succeeded in November , roughly 10 years after the initial request, in carrying out the mission. On the basis of relatively short negotiations, the Russian Federation invited me in spring , and we agreed on the terms of reference TOR and set the dates for a 2 weeks mission in October , which also included visits to the Caucasus Republics of Chechnya, Ingushetia, and the Kabardino-Balkaria. The preparations for the mission, including all security arrangements, were finalized when the Russian Government, only a few days before the mission was going to start, postponed it on the basis of alleged inconsistencies between my TOR and Russian legislation. Although the invitation was never formally withdrawn, no progress could be achieved during our negotiations in the 2 years since then. Soon after the first suspected terrorists were sent to these detention facilities, Theo van Boven and other special procedures mandate holders had requested an invitation, and in June preparations for a joint investigation had started. In October , the US Government finally extended an invitation to three of the five mandate holders

who jointly carried out the fact-finding, and we started preparations for a mission in December About one month before the agreed dates, we had to postpone the mission as it became clear that the US Government was not willing to comply with the general TOR for fact-finding missions of special procedures, in particular, individual interviews with detainees. What are the most contentious issues in the preparation of a mission? The general terms of reference for fact-finding missions of special procedures 12 clearly spell out that mandate holders must enjoy full freedom of inquiry, which includes unrestricted freedom of movement throughout the country and confidential interviews with victims, family members, witnesses, lawyers, human rights defenders, NGOs and others who might provide relevant information. Since torture takes place behind closed doors, it is absolutely essential that the SRT conducts unannounced and unsupervised visits to places of detention and speaks in private with detainees of his or her choice. In my reports I explained that these methods of independent fact-finding are common sense requirements of any objective and impartial investigation. In order to avoid difficult negotiations with Government officials, prison directors and police chiefs on the spot, it is absolutely essential that the Government agrees in writing beforehand on these TOR that must also contain assurances that detainees, victims, and witnesses who choose to speak to me are not subject to any reprisals. Finally, testimonies by alleged torture victims, inside or outside detention, need to be corroborated by forensic expertise in accordance with the standards laid down in the Istanbul Protocol. It is precisely these requirements of independent fact-finding that many Governments, including the three mentioned earlier, wish to restrict. They use all kinds of arguments, including domestic legislation, internal prison rules, and security concerns, to prevent me from conducting unannounced visits to places of detention, from speaking in private with detainees and from investigating and documenting torture allegations with the assistance of forensic doctors. If Governments are not ready to provide the necessary assurances, it is usually more prudent to cancel or postpone the mission than to undermine the possibility of effective fact-finding on the spot. If a Government agrees on the dates of a mission in accordance with my TOR, concrete preparations start. While the Government is responsible for arranging meetings with Government officials whom I request to see, the Office of the High Commissioner for Human Rights OHCHR , together with the UN Resident Coordinator and his or her country team, is responsible for the logistical preparation, security arrangements, meetings with civil society, victims and witnesses, and for visits to places of detention. I ask the Government to provide me with a full list of all places of detention but the actual selection of places to be visited is usually a last minute decision on the spot. It depends on various factors, including information available on the general conditions of detention and most recent allegations of torture and ill-treatment. In preparing a mission, I study the legal framework and gather factual information from all available governmental and non-governmental sources. Meetings with heads of State or Government, such as in Georgia, Mongolia, Nigeria, Togo and Moldova, underline the commitment of the respective Governments to eradicate torture and facilitate the effective implementation of my recommendations. At the end of the mission, I first debrief the Government on my preliminary conclusions, then the UN country team and the diplomatic community, and finally the media at a press conference, followed by selected media interviews. During a mission, I refrain from speaking to the media apart from informing them about the purpose and conduct of the mission. Most of the time of a mission is spent on visits to places of detention, interviews with prison staff and detainees, and other meetings with victims, witnesses, human rights defenders, NGOs, lawyers, academics, and diplomats. These visits and meetings are organized by the United Nations without the presence of any Government officials. Governments are not informed of, and not supposed to know, whom I meet during a mission apart from official meetings with Government officials. Although this freedom of confidential inquiry constitutes an essential element of my TOR, Governments and their intelligence services have many means at their disposal to subject me, my team, and my interview partners to surveillance and to obstruct the confidentiality of the fact-finding. The Chinese authorities, for example, effectively prevented certain victims, witnesses, and lawyers from meeting me by means of intimidation, arrest, and constant surveillance. Persons were arrested when boarding a train in Shanghai, the wife of a prominent political prisoner was forcibly brought outside Beijing during the time of my visit, the car of a prominent lawyer was stopped by force on his way to a meeting with me, and our conversation in a public restaurant was interrupted by intelligence agents, who

followed us to the hotel, etc. In Indonesia, where I had to fly from island to island, intelligence officers precisely monitored my respective arrivals and departures. Although my visits to places of detention were unannounced and supposed to be unknown, high Government officials had come from Jakarta to Makassar to make sure they were present during my visit to certain police and military facilities. Similarly, the authorities of Equatorial Guinea closely monitored all my movements throughout the country, and at the debriefing meeting the Ministers of Interior and National Security openly admitted that my meetings with members of the opposition party had been subjected to intelligence surveillance. In Sri Lanka, it was not easy to convince the Government that it was for the UN, and not for the Government that had provided me at the beginning of my mission with three body guards, to take care of my personal security needs. In Mongolia, prison officials effectively prevented my access to prisoners on death row on the grounds that such meetings would violate the doctrine of State secrecy. In several countries, including Jordan, Togo, and Nigeria, access to detainees kept by the intelligence services proved to be extremely difficult, sometimes impossible. During visits to places of detention, prison guards in many countries argue that they must be present during my interviews with highly dangerous prisoners in order to protect me. I could provide many more examples of well-intended or less well-intended attempts of Governments and their prison, security and intelligence personnel to make independent and confidential fact-finding as difficult as possible. Sometimes, these attempts are based on legitimate security concerns or misunderstandings relating to the nature of my mandate and my methods of work. More often, security concerns or internal prison regulations are used as an excuse for obstructing my fact-finding or hiding evidence. Most of the fact-finding relates to conditions in places of detention and to allegations of torture during detention. But my mandate also covers ill-treatment and excessive use of force by the police outside detention, including during arrest or when quelling a riot or demonstration, as well as ill-treatment by non-State actors with the acquiescence of public authorities. In this respect, I pay particular attention to gender-specific forms of torture and ill-treatment, such as domestic violence, trafficking, and traditional practices, including female genital mutilation and honour crimes. Visits to Places of Detention Unannounced visits to prisons, pre-trial detention facilities, police jails and smaller police lock-ups, psychiatric institutions, and special detention centres for minors, illegal migrants, or other specific groups are for two reasons at the centre of my fact-finding missions. I wish to get an impression about the general conditions in places of detention and I wish to look for evidence of torture that is always practiced behind closed doors. The way in which a society treats its detainees tells much about the existence or non-existence of a culture of human rights. Detainees belong to the most vulnerable groups in every society. With their arrest, whether justified or not, for many detainees a true ordeal starts. Life behind bars is totally different from normal life and follows very special rules and hierarchies. One becomes totally dependent on others, whether prison guards or fellow prisoners, for the fulfilment of the most basic needs of survival. The right to privacy, communication with and visits by family members, friends, a doctor or a lawyer, are severely restricted and often non-existent. Some detainees are better able to adapt to the specific rules, dependencies, hierarchies, corruption, and the inherent violence of prison life than others. Many become desperate and mentally or physically ill. If governmental authorities are not able or willing, through comprehensive positive measures and sufficient financial resources to take care in a responsible manner of the specific human rights and needs of detainees, life behind bars may soon become hell. Detainees feel that they have been forgotten by society, and in fact most people who live in freedom do not know and do not wish to know what life behind bars looks like and how it feels.

Chapter 7 : What is the definition of torture and ill treatment? â€" INTERCROSS

Government Accountability for Torture and Ill-Treatment in Health Settings KB pdf The absolute prohibition under human rights law of all forms of torture and cruel, inhuman, and degrading treatment is commonly applied to prisons and pretrial detention centers.

Article 25 June Torture and all other forms of cruel, inhuman, degrading or humiliating treatment are banned under international law. The ICRC strives to prevent these practices and put an end to them where they do occur, and we care for the victims of abuse and their families. The points below summarize both the facts about torture and ill-treatment and the way the ICRC deals with such abuse. Torture and ill-treatment â€" some facts Torture is widespread. There is no country, no society today that is entirely immune from this phenomenon in one form or another. There is an absolute ban on torture and on all other forms of cruel, inhuman, degrading or humiliating treatment. This ban is set out in both international humanitarian law and international human rights law. Torture is an affront to humanity. It constitutes an intolerable outrage upon the victims themselves and upon human dignity. The physical and psychological consequences for individuals can be severe and irreparable. People who have suffered torture or other forms of ill-treatment need long-term rehabilitation. Nothing can justify torture or other forms of ill-treatment. This includes all political, economic, security, cultural or religious arguments. Families are the unseen victims of torture. Torture and ill-treatment can disrupt or destroy them. Torture and other cruel, inhuman or degrading treatment can destroy the social fabric of a community or society. Abuse generates hatred; it can generate deep resentment within communities and feed a cycle of revenge. In order to ensure that detainees suffer neither torture nor cruel, inhuman or degrading treatment, it is essential to respect basic judicial guarantees and procedural safeguards. Respect for judicial guarantees and procedural safeguards is an important step towards preventing abuse against people deprived of their liberty and improving conditions of detention. What the ICRC is doing about torture and ill-treatment The ICRC strives to prevent and put an end to torture and cruel, inhuman or degrading treatment in armed conflicts and other situations of violence. The ICRC cares for victims of abuse and their families, putting the person at the centre of its action. To obtain and maintain the trust of victims and their families, and access to actors responsible for alleged torture and ill-treatment or with potential influence to prevent or put a stop to instances of torture and ill-treatment, the ICRC works in a strictly bilateral and confidential manner. The ICRC engages with all authorities and actors of influence, with the sole aim of preventing or putting a stop to abuse and ensuring humane treatment. The ICRC helps victims regain their dignity through its visits to places of detention. Based on its visits, the ICRC engages in confidential dialogue with the authorities on the treatment of detainees, conditions of detention and respect for judicial guarantees. The ICRC supports the victims of abuse and helps in their rehabilitation. We work with organizations that specialize in this field, including certain National Red Cross and Red Crescent Societies. The ICRC engages in a bilateral and confidential dialogue with government authorities and others to help them prevent and punish acts of torture and other forms of ill-treatment. The ICRC also supports national preventive mechanisms and the establishment of comprehensive and effective legal frameworks.

Chapter 8 : What is the definition of torture and ill treatment? - ICRC

The latest claims of torture come three months before the fifth anniversary of Viet Nam becoming party to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was celebrated as evidence of Viet Nam's further positive integration into the international community.

Punitive measures taken by the Palestinian Authority PA exacerbated the humanitarian crisis in Gaza caused by the closure enforced by Israel. The PA in the West Bank and Hamas in Gaza escalated crackdowns on dissent, arbitrarily arresting critics, and abusing those in their custody. Between July and June , Israeli authorities authorized construction work on more than 2, new housing units for settlers in the West Bank, excluding East Jerusalem. Israel operates a two-tiered system in the West Bank that provides preferential treatment to Israeli settlers while imposing harsh conditions on Palestinians. While settlements expanded in , Israeli authorities destroyed homes and other property, forcibly displacing people as of November 6, in the West Bank, including East Jerusalem, as part of discriminatory practices that reject almost all building permit applications submitted by Palestinians. Power outages jeopardize water supply, interfere with sewage treatment, and cripple hospital operations. Israeli security forces used lethal force against demonstrators and against suspected attackers in the West Bank and at the Gaza border. Palestinian assailants, most of them apparently acting without the formal sponsorship of any armed group, carried out stabbings and occasional shootings against Israelis. Between January 1 and November 6, , Israeli security forces killed 62 Palestinians, including 14 children, and injured at least 3, Palestinians in the West Bank, Gaza and Israel, including protesters, suspected assailants or members of armed groups, and bystanders. Palestinians killed at least 15 Israelis during this same time, including 10 security officers, and injured in conflict-related incidents in the West Bank and Israel. In April and May, hundreds of Palestinian prisoners spent 40 days on hunger strike seeking better conditions. As of November 1, Israeli authorities incarcerated 6, inmates on what they consider security grounds, the overwhelming majority Palestinian, including 3, convicted prisoners, 2, pretrial detainees and administrative detainees held without charge or trial, according to the Israel Prison Service. The PA and Hamas arrested activists who criticized their leaders, security forces, or policies, and mistreated and tortured some in their custody. The Independent Commission for Human Rights in Palestine ICHR , a statutory commission charged with monitoring human rights compliance by the Palestinian authorities, received complaints of torture and ill-treatment by PA security forces and such complaints against Hamas security forces as of October Hamas authorities executed six people during this same period following trials that lacked appropriate due process protections. Outgoing goods in the same period averaged truckloads per month, mostly produce to be sold in the West Bank and Israel, just 19 percent of the average 1, truckloads per month that exited prior to the June tightening of the closure. About 29, people who lost their homes remain displaced. The Israeli government sought to justify the restrictions by saying that construction materials can be used for military purposes, including fortifying tunnels; it allowed only limited quantities to enter, under the supervision of international organizations. Measures taken by the PA to pressure Hamas further exacerbated the impact of the closure. Its decision in January to stop buying fuel from Israel that it had been supplying to Hamas authorities and its request in May for Israel to cut the electricity the Israeli government sells to the PA for use in Gaza significantly reduced already limited electricity supply, imperiling critical health, water, and sanitation services. Patients in Gaza seeking treatment outside Gaza faced lengthening delays in obtaining approvals from the PA. While the PA approved 99 percent of applications within seven days of submission between January and May, that number dropped to 36 percent between June and August and 32 percent in September, according to the World Health Organization WHO. In addition, in September, Israel authorities denied or delayed permits with no response by the time of the appointment to 45 percent of patients seeking treatment outside Gaza. Egypt also blocked all regular movement of people and goods at the crossing with Gaza that it controls, with narrow exceptions mostly for medical patients, those holding foreign passports, residencies or visas, including students, and pilgrims to Mecca. Between January and October, an average of about 2, persons monthly crossed through Rafah in both directions, compared with an average of 40, per

month in the first half of , prior to the overthrow of Egyptian President Mohamed Morsy. Israeli soldiers fire at people who enter that zone and at fishermen who venture beyond six nautical miles from the shoreâ€"the area to which Israel restricts Gaza fishing boats. Israel temporarily expanded the fishing zone to nine miles between May and June and again between October and December. Israel says it restricts access to the sea to prevent the smuggling of weapons into Gaza. Hamas and Palestinian Armed Groups In , Palestinian armed groups launched 10 rockets into Israel from Gaza as of October 31, causing no casualties but generating fear and disruption in affected cities and towns. These rockets cannot be accurately aimed at military objectives and amount to indiscriminate or deliberate attacks on civilians when directed at Israeli population centers. Hamas, which has internal control over Gaza, is responsible for policing the border and the territory it controls and acting to ensure that unlawful attacks do not take place. Hamas authorities arrested scores of protesters following demonstrations in January related to the electricity crisis in Gaza as well as activists, journalists, and critics throughout the year. West Bank Israel In the West Bank, as of November 6, Israeli security forces fatally shot 42 Palestinians and wounded at least 3,, including passersby, demonstrators, and those suspected of attacking Israelis. In many cases, video footage and witness accounts strongly suggest that forces used excessive force. In this same period, attacks by settlers killed three Palestinians, injured 49, and damaged property in incidents, according to OCHA. In February, an Israeli military court sentenced to 18 months in prison soldier Elor Azaria, who had been convicted of manslaughter for the killing at close range of a Palestinian who lay immobilized on the ground after stabbing another Israeli soldier. The IDF chief of staff reduced the sentence to 14 months in September. The conviction marked a rare exception, as Israeli authorities continued in to fail to hold accountable security forces and settlers who attack Palestinians and destroy or damage Palestinian mosques, homes, schools, olive trees, cars, and other property. Between and , police closed Settlements, Discriminatory Policies, Home Demolitions Israel continued to provide security, administrative services, housing, education, and medical care for about , settlers residing in unlawful settlements in the West Bank, including East Jerusalem. Building permits are difficult, if not impossible, for Palestinians to obtain in East Jerusalem or in the 60 percent of the West Bank under exclusive Israeli control Area C. This has driven Palestinians to construct housing and business structures that are at constant risk of demolition or confiscation by Israel on the grounds of being unauthorized. Palestinians in these areas have access to water, electricity, schools, and other state services that are either far more limited or costlier than the same services that the state makes available to Jewish settlers there. Of the Palestinian homes and other property demolished in the West Bank including East Jerusalem in as of November 6, displacing people, Israeli authorities sought to justify most for failure to have a building permit. Israel also destroyed the homes of families in retaliation for attacks on Israelis allegedly carried out by a family member, a violation of the international humanitarian law prohibition on collective punishment. Freedom of Movement Israel maintained onerous restrictions on the movement of Palestinians in the West Bank, including checkpoints and the separation barrier, a combination of wall and fence in the West Bank that Israel said it built for security reasons. Israeli-imposed restrictions designed to keep Palestinians far from settlements forced them to take time-consuming detours and restricted their access to agricultural land. Israel continued construction of the separation barrier, 85 percent of which falls within the West Bank rather than along the Green Line separating Israeli from Palestinian territory, cutting off Palestinians from their agricultural lands and isolating 11, Palestinians on the western side of the barrier who are not allowed to travel to Israel and must cross the barrier to access their own property as well as services in the West Bank. Arbitrary Detention and Detention of Children Israeli military authorities detained Palestinian protesters, including those who advocated nonviolent protest against Israeli settlements and the route of the separation barrier. Israeli authorities try the majority of Palestinian children incarcerated in the occupied territory in military courts, which have a near percent conviction rate. Israeli security forces arrested Palestinian children suspected of criminal offenses, usually stone-throwing, often using unnecessary force, questioned them without a family member present, and made them sign confessions in Hebrew, which most did not understand. The Israeli military detained Palestinian children separately from adults during remand hearings and military court trials, but often detained children with adults immediately after arrest. As of June 30, Israeli authorities held Palestinian children in military

detention. As of October , Israel held Palestinian administrative detainees without charge or trial, based on secret evidence, many for prolonged periods. Israel jails many Palestinian detainees and prisoners inside Israel, violating international humanitarian law requiring that they not be transferred outside the occupied territory and restricting the ability of family members to visit them. Palestinian Authority PA security services arrested dozens of journalists, activists and opposition members. Amro also faces charges in Israeli military court for his role in a protest. In June, the PA issued a new cybercrime law, granting the government vast authority to control online activity and blocked access in the West Bank to at least 29 news websites affiliated with Hamas and Fatah factions opposed to Palestinian President Mahmoud Abbas. Complaints persisted of torture and ill-treatment carried out in the West Bank by PA security services. Arbitrary arrests and torture violate legal obligations that the state of Palestine assumed after it ratified the International Covenant on Civil and Political Rights and the Convention against Torture in Israel Israeli authorities have continued to narrow the space for criticism of its policies toward Palestinians. In March, the Knesset passed a law barring entry to foreigners who call for boycotting Israel or settlements. Authorities continue to impose onerous reporting requirements on nongovernment organizations receiving most of their funding from foreign government entities. These measures include prolonged detention; restrictions on freedom of movement; ambiguous policies on permission to work; and restricting access to health care. On August 28, the Israeli High Court ruled that authorities could not detain rejected asylum seekers refusing transfer to Rwanda for longer than 60 days and that they could only use force to transfer them if Rwanda agreed to that approach. The International Criminal Court ICC Office of the Prosecutor is conducting a preliminary examination into the situation in Palestine to determine whether the criteria have been met to merit pursuing a formal investigation into crimes committed in and from Palestine. The UN Human Rights Council requested the High Commissioner for Human Rights to create a database of businesses that have enabled or profited from the construction and growth of the settlements.