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M E M O R A N D U M

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THE INTERNATIONAL COMMISSION OF JURISTS

to the

U.N. SUB-COMMISSION ON PREVENTION OF  
DISCRIMINATION AND PROTECTION OF MINORITIES

Library  
International Commission  
of Jurists (ICJ)  
Geneva, Switzerland

concerning

"VIOLATIONS OF THE HUMAN RIGHTS  
\* \* \* \* \*  
OF PERSONS IN DETENTION OR IMPRISONMENT"  
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A Summary of Recent Materials and Reports on Cases of Torture  
in Various Countries

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August 1976

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## I N T R O D U C T I O N

In response to the request contained in Resolution 7 (XXVII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the International Commission of Jurists circulated to members of the Commission at their meeting in 1975 a Memorandum relating to "The human rights of persons in detention or imprisonment".

By Resolution 4 (XXVIII) the Sub-Commission requested the Secretary-General of the United Nations to invite (inter alia) non-governmental organisations to furnish information, in particular about the matters referred to in paragraphs 2 and 3 of that Resolution.

The International Commission of Jurists respectfully draws the attention of the Sub-Commission to the information already contained in its 1975 Memorandum. In addition, it circulates herewith a further Memorandum consisting mainly of statements made by victims of torture and other ill-treatment in various parts of the world, relating to the matters referred to in the above Resolution.

Niall MacDermot  
Secretary-General

August 1976

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## A. FACTORS PROMOTING THE PRACTICE OF TORTURE

### I. POLITICAL ENVIRONMENT

When looking into the possibility of eliminating the practice of torture it is important to keep in mind that the incidence of torture is directly related to the degree of political and social stability and the concomitant feelings of fear and frustration experienced within offending countries. The compulsion to resort to barbaric methods of repressing the political opponents of those in power is intensified whenever the rulers feel their position to be imminently threatened by opposing groups - especially by those who use or are driven to use unconstitutional methods to gain power. A chronically unstable situation encourages callousness on the part of the security authorities and apathy among the public. The use of torture against political prisoners thus becomes institutionalised and systematic. Moreover, by declarations of a state of emergency or state of siege, the security authorities are usually freed from any or any effective judicial scrutiny and control.

In the long term the perpetuation of such practices without abatement in an atmosphere of chronic unrest causes a marked deterioration in the values of those living under such conditions, who increasingly condone violence as a necessary means of maintaining order. They increasingly accept the fact that the need to control dissidents necessitates the creation or strengthening of secret police and/or paramilitary or military units engaged in security activities who are permitted to operate autonomously.

It should be added that there is often evidence of a sadistic element in torture practices, but it is not thought that this is the cause of resort to torture. Rather it is evidence of the deterioration in values resulting from the grant of unlimited powers to the security authorities.

### II. THE ABSENCE OF JUDICIAL CONTROL OVER THE SUPERVISION OF ARREST AND DETENTION

Evidence from many different countries indicates that the incidence of torture is directly related to the degree of judicial supervision of the arrest and detention and of the manner in which the arrest and detention are carried out.

#### (a) Arrest and Torture

In many countries arrests are carried out surreptitiously in order to thwart judicial scrutiny of the subsequent interrogation of the detainee.

Methods of arresting and interrogating prisoners in Indonesia were referred to in the memorandum submitted by the International Commission of Jurists to the Sub-Commission in 1975. Further information on conditions prevailing in that country indicate that these practices are continuing.

In testimony before a U.S. House of Representatives Sub-Committee in December 1975 a witness states that "all of the observed prisoners and released prisoners who had spent three to five years in prison without trial had been arrested in their homes by surprise. They were not shown any written orders

explaining the basis of their arrest and were taken to prisons without being able to inform their families where they were going. All of them were intensely interrogated in an attempt to identify them with the September 1965 abortive coup. None could provide such information even under torture (including sexual torture). In some cases both husbands and wives were taken leaving young children to fend for themselves or find shelter with relatives."(1)

The testimony of a former female detainee of an Indonesian prison is also revealing in this respect. She observed that "arrests are made (as I can testify from my own experience) by the person making the arrest failing to identify himself or to inform the person being arrested or his or her family of the unit making the order for arrest or the place to which the prisoner is to be taken ... As a result of these gross violations prisoners are subjected to a number of indignities and injustices against which they have absolutely no protection. In many cases, relatives lose all contact with the detainee who is not even granted the right to communicate with close relatives to inform them of his or her whereabouts".(2)

It is evident, therefore, that anonymous and surreptitious arrests effectively prevent judicial supervision of the arresting authority. It gives the arresting authority full licence to subject the prisoner to the grossest forms of maltreatment without fear of discovery or censure. Prisoners are not transferred to normal and official places of detention until any traces of their ill-treatment have disappeared. Surreptitious and arbitrary arrests are common whenever the security forces feel it necessary to resort to torturing of political prisoners to "break" them. In the Philippines, for example, illegal methods of arresting political opponents of the Government have been regularly resorted to over the last few years. The following accounts of the arrest and interrogation of three political detainees are given as examples:-

Julius Giron, a 23 year old Filipino, states that at the time of his arrest he was visiting a friend who had agreed to take him to a doctor for the treatment of his arthritis and lung ailment. As he entered the friend's flat he was assaulted by 12 plain clothed men who robbed him of his wallet, sunglasses and wrist-watch and forced him to undress at gunpoint while he witnessed "the savage mauling" of another unfortunate stranger who had come to the flat before him. Giron was subsequently driven to headquarters and tortured: "In a preliminary interrogation ... I was accused of being a ranking member of the communist party of the Philippines. My honest declaration of innocence was in vain. Instead, by brutal force, I was made to accept self-incriminatory statements and to declare false testimonies. Orlando Flores of the National Intelligence Security Agency elbowed me in the sternum ... followed by karate blows on my nape and strangulation of my oesophagus by Lt. Arturo Lumibao. Lt. Garcia slapped me in the face and Lt. Cuffand boxed me in the stomach". Mr Giron states that this ordeal, during which he was several times

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- (1) Testimony of John Newmann before the Sub-Committee on International Organizations and Movements of the House of Representatives Committee on Foreign Affairs, December 8, 1975.
  - (2) Testimony of Carmel Budiardjo before the same Sub-Committee, December 18, 1975 at p. 6.

threatened with death, lasted for two days without interruption.(3)

Charlie R. Palma another victim of the Philippines security forces describes his arrest:

"I was arrested while looking for a friend's house in Quezon City ... As I entered the house I was pulled inside, stabbed with a 45 calibre pistol in the stomach, and thrown down on the cement floor by a civilian informer - Butch Mandapat. ... They took my sunglasses and money. All six of them took turns to box me in the stomach and when I fell down in pain and exhaustion they helped me on my feet and forced me against the wall. I received another round of blows in the stomach".(4)

Palma was also brutally tortured for two days. Similar methods of arresting and interrogation have been experienced by others. In all these cases innocent persons have been indiscriminately arrested and tortured by plain clothed men. A third victim, Romeo Lucas describes his arrest and subsequent maltreatment at the hands of the security forces:

"As I walked down the driveway, of my aunt's home I was set on to by a vehicle full of men whom I thought to be a hold-up gang. This group turned out to be my arresting party. I saw these man pull out their guns as if they were going to aim them at me. Sensing a dangerous situation I tried to run away from them; they chased me along Gov. Forbes and Laong-Laan streets and even tried to shoot at me in broad day-light. After some time they were able to capture me. Members of the arresting party beat me up in public with their fists and pistols, and thereafter, they brought me back hand-cuffed to my aunt's house. There, they coerced me to affix my signature to assorted letters of dubious origin whose contents, they alleged, were "subversive". On the way to Camp Crane military operatives took turns to beat me up in the back seat of their car, by giving me a series of fist blows and pistol blows on the face, head, chest and back. For a couple of days I was held incommunicado in the M-2 division at Camp Crane where I was severely tortured until I was shipped to Camp Olivos".(5)

In some cases the identify and the reason for the arrest are not divulged to the victim. In Guatemala, for example, large numbers of peasants have been arrested and tortured by anonymous arresting squads for no apparent reason. Many of those arrested meet with violent deaths. It is reported that hundreds of unexplained deaths have occurred in rural Guatemala for a number of years, and that there is a definite pattern to the arrest, torture and subsequent death of the victim. The assailants are sometimes partially identified, often recognisable as "well organised groups of heavily armed men who arrive in automobiles that have no registration plates".(6)

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- (3) Testimony of Julius S. Giron in a publication sent from Camp Olivos, San Fernando, Pampanga, Philippines, 7 November 1975, at pp. 3 & 4.  
(4) Testimony of Charlie R. Palma. Ibid at p. 5.  
(5) Testimony of Romeo Lucas. Ibid at p. 9.  
(6) Amnesty International Bulletin. Vol. II, No. 7 July 1975, at p. 1

One victim who survived his ordeal describes how he was arrested by two plain clothed men who, on this occasion, identified themselves as military police. He was tied to a tree, shot through the chest and legs, untied and left to die. He managed to crawl to a nearby village where he was taken to hospital. He is unable to give any reason for the attack. It is evident, however, that the security forces are responsible for a large number of the executions. Reportedly 27% of the corpses show signs of torture or mutilation including multiple fractures and severe burns".(7)

(b) Detention and Torture

Prolonged detention of large numbers of persons often without charge and without trial frequently leads to their maltreatment at the hands of those responsible for their internment. In most cases judicial control over the activities of prison and security personnel is minimal or completely absent.

In Uruguay at the present time it is estimated that there are about 6,000 political prisoners representing one prisoner for every 450 citizens. Numerous reports on the situation there have revealed widespread and systematic use of torture on large numbers of political detainees. One states that of the 600-700 persons arrested during the latter part of 1975 at least 10 had to be transferred to a military hospital suffering from serious injuries. The detainees are incarcerated in overcrowded prisons, police stations and military barracks that are totally inadequate to support such numbers. Often they lack even the barest necessities of life.(8)

Even after prisoners have been transferred from interrogation centres to other places of detention, absence of any proper supervision and control may result in the prisoners being subjected to the capricious brutality of prison guards and of other prisoners.

A Soviet political prisoner, the mathematician Leonid Plyushch, describes how orderlies in a soviet psychiatric prison hospital - many of whom were convicted criminals - were allowed to "baat-up" and administer drugs to political detainees. "Many patients were writhing in pain and screaming from injections of halopenidolor or of sulphur which raises the body temperature to 40° centigrade. These injections were administered as punishment by ward orderlies, who were often convicted criminals. Other ... beatings were commonplace. A number of inmates, including one political prisoner had been beaten to death by orderlies. Punishment was arbitrarily administered on the most petty pretexts, and the prisoners were often afraid to protest to their doctors for fear of receiving sulphur injections".(9)

B. CHARACTERISTICS OF TORTURE

I. PHYSICAL ASSAULT

(a) General

The methods employed to inflict physical harm upon detainees are becoming more scientific and consequently sometimes more brutal than in the past.

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(7) Ibid

(8) Amnesty International Bulletin Vol III, No. 2, February 1976, p.3

(9) Amnesty International Bulletin Vol. III, No, 3, March 1976, p. 6

Not infrequently prisoners must be certified fit to withstand certain types of torture by a doctor, who plays an important role during the interrogation. For example, in Brazil, on arrival at military police H.Q., prisoners are examined by a doctor who checks their health and then classifies them in one of three categories. The third category is the safest, "torture treatment beginning with electric shocks of 110 volts". (10)

The recent testimony of two persons who were subjected to prolonged torture give an indication of the many types of physical maltreatment that political detainees in their countries undergo; similar methods have been reported used in other countries.

The first account is given by Reza Baraheni, an Iranian intellectual, who was arrested by the Iranian security police for allegedly engaging in anti-government activities. He was detained and subjected to a gruelling interrogation, which included torture, before being released:

"Tie him up", Dr. Azudi ordered his men, and turning to me he said: "Go and lie down". There was a bed on the floor. There were also two other iron beds, one on top of the other, in another corner of the room. These last two, I later learned, were used to burn the backs, generally the buttocks, of the prisoners. They tie you to the upper bed on your back and with the heat coming from a torch or a small heater, they burn your back in order to extract information. Sometimes the burning is extended to the spine, as a result of which paralysis is certain. There were also all sizes of whips hanging from nails on the walls. The electric batons stood on little stools. The nail-plucking instrument stood on the other side. I could only recognise these devices upon later remembrance through description by others as well as by personal experience. The gallows stood on the other side. They hang you upside down, and then someone beats you with a mace on your legs, or uses the electric baton on your chest or on your genitals ...There were in the other torture rooms worse instruments which other prisoners would describe; the weightcuffs that break your shoulders in less than two hours of horrible torture; the electric shock instrument, apparently a recent introduction into the Iranian torture; and the pressure device which imposes pressure upon the skull to the extent that you either tell them what they want or let your bones break into pieces. The most horrible instruments were located on the second floor. The torture chamber resembles an ancient Egyptian tomb and is reserved for those suspected of being terrorists or those accused of having made attempts on the life of the Shah. Not every prisoner goes through the same process, but generally ... he is beaten by several torturers at once, with sticks and maces; if he does not confess, he is hanged upside down and beaten; if this does not work he is raped; and if he still shows signs of resistance, he is given electric shock treatment which turns him into a howling dog; and if he is still obstinate, his nails and sometimes all his teeth are pulled out, and in certain exceptional cases, a hot iron rod is put into one side of the face to be forced through to the other side, burning the entire mouth and tongue. At other times, he is thrown down on his stomach on the iron bed and boiling water is pumped into his rectum by an enema". (11)

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(10) Amnesty International Bulletin Vol. V, No. 2, December 1975, p. 1

(11) A report by Reza Baraheni - entitled: "God's shadow (Prison Poems)", September 1975, at pp. 10-11



A second account comes from Mr. Na Byung Sik - a South Korean student who was eventually released from prison after being incarcerated for some months. His ordeal was described in the London Times as follows:

"On April 7 the day after I was arrested, I was taken to the sixth bureau of the Korean Central Intelligence Agency. I was taken to room 208 and made to remain on my hands and knees for two hours. They used part of an army bed as a club to beat me on my back ... He was then forced to sit on his haunches until dawn. After two sleepless nights he was taken to the Seoul detention camp. / Later / they placed ballpoint pens between my fingers and crushed my hands. The pain was terrible but I continued to deny charges ... They would hang me upside down, tie a towel around my mouth and then run water into my nostrils. The beating would continue all the time. I was half unconscious when they attached electric wires to my toes. The shocks jolted my body and all I can remember are my own screams. ... They would alternate the type of treatment, no sleep, beatings, electric shock treatment and then they would gag me, hang me upside down, and pour water down my nostrils". (12)

John Newman's testimony to a US Congressional Sub-Committee (already referred to) points out that conditions akin to torture may result from a failure to provide or maintain prison conditions in accordance with accepted standards. He stated that in many of the Indonesian prisons "the conditions under which the prisoners I knew lived were unbelievably trying. No beds or bedding were provided. One toilet would serve nearly 100 persons, it was often broken, and the fresh water supply was extremely limited. Infections, lice, and rats were commonly found in the prisons. Malaria was contracted from time to time and the lack of medical care often resulted in needless deaths. Food provisions usually consisted of small portions of rice and watery, weak soup with an occasional vegetable or piece of dried fish. Meat and eggs were almost never available, and the only beverage was water. Malnutrition was common as were gastro-intestinal disorders, from which one released prisoner I know has not recovered since his release five years ago. Prisoners could not receive letters or write them. Only religious materials (the Bible or Koran) could be read."

(b) Sexual Assault

The occurrence of sexual abuses and assaults upon torture victims is alarmingly high in the case of women, but in many cases victims of rape are men.

The Iranian Reza Baraheni makes reference to sexual assaults. ... "They lower you down, pull your pants up and one of them tries to rape you while you are still hanging upside down. Evidently, great rapists, with very ingenious imaginative powers, they invented this style to satisfy their thirst for algolagma". ... "Later when I woke again Azudi was still sitting by me. There were now two whippers; one on either side. "Are you married"? Azudi asked. "Yes" I said. "Is your wife an american?" "No, she isn't" I said. "Is she an Iranian?" "Yes" I said. "Then I'll have her brought here and I'll have the guards fuck her right in front of your eyes". ... (Azudi continued):

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(12) London Times, 18.2.1975, at p. 6.

"You have a daughter, dont you?" "Yes". "How old is she?" "13!" "How nice. Guard? How would you like to fuck a girl of 13?" The torturers laughed".(13)

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In testimony already mentioned above, Carmel Budiardjo, an Indonesian ex-political prisoner specifically refers to the sexual maltreatment of women during their interrogation in Indonesian political prisons.

(c) Death Resulting from Torture

A second specific aspect of physical assault is death resulting from severe torture. The circumstances of the deaths are misrepresented by the security authorities, and the family is usually told that the deceased committed suicide.

In Uruguay, for example, reports indicate that 22 deaths have occurred between 1972 and 1975 after the deceased had been severely tortured.(14) The circumstances surrounding the death of a well known journalist in Uruguay - Mr Vladimir Herzog - are illustrative. Mr Herzog voluntarily presented himself to security headquarters. A few days later the commander issued a statement that Herzog had hanged himself after having admitted to his membership in the banned communist party. However security police refused to allow his family to open the sealed coffin so that jewish pre-burial rites could be performed.(15) A similar situation also exists in Brazil. As many as 300 political prisoners reportedly have died as a result of injuries caused by extreme forms of torture since 1964.(16)

There have also been reports of deaths resulting from torture of political prisoners by the Philippines forces. In one case a 51 year old shoemaker, Juan Admario, was surrounded by intelligence officers in January 1976 for questioning. The same day he was found dead in the grounds of security headquarters with large bruises on his left temple, bleeding eyes and bruises around his wrists. The military insisted that he died of a heart attack and declared that all reports to the contrary were distorted and subversive. In another case a student at the university of Manila - a Miss Lilliosa Hilac - was raped before being murdered in Camp Crane in 1973.(17) Reference has already been made to the situation in Guatemala where many hundreds of peasants and left-wing Guatemalans have been arbitrarily and brutally murdered by the security police for no apparent reason.

II. "PSYCHOLOGICAL" ASSAULT

This aspect of torture is often overlooked. Whereas the torturers may cease to assault the prisoner physically after the completion of the interrogation, severe psychological pressure continues to be inflicted on the prisoner by the torturers or the prison staff either actively by incarcerating the individual in solitary confinement for extremely long periods or by the omission of an act or duty (as for example, by depriving the prisoner of correspondence

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(13) Loc. cit. pp. 10, 13 and 14.

(14) Amnesty International Bulletin, Vol. III, No. 2, February 1976.

(15) Amnesty International Bulletin, Vol. V. No. 12, December 1975.

(16) Amnesty International Bulletin, Vol. VI. No. 1, January 1976.

(17) From a report on arrests of political prisoners in the Philippines. December 1975 - January 1976, at p. 5.

from family and friends).

In many cases, also, the psychological damage done to torture victims tends to be more serious than physical damages in that often the damage is permanent, preventing the victim from ever achieving a complete recovery.

The psychological effects of torture have been vividly described by Reza Baraheni as follows: "Once you are out of their prisons, that is, if you are out at all, you are so different that neither you nor anyone who knew you before can tell for sure whether it is actually you who have come forth from the death. Then there is the internal torture; the nightmare of things which took place while you were there, which come back to you in the form of these very elements of frustration, the scissors of castration, and you simply let yourself go down the slope."<sup>(18)</sup> And elsewhere he describes the mind of the prisoner as the prison itself: "The prison has a structure of its own. It looks like no other building outside. At least that is the case with Iranian prisons. This structure is also the structure of the prisoner's mind. After, when the prisoner comes out of prison, there is no way for him to escape this structure. It is said that an addict gets used to having a new cerebral structure. The reason he can never cease to be an addict is that he can never escape that structure. It is the same with a man who has been in a torture chamber. That gory revelation of pain, or rather, that epiphany of emasculation and castration haunts him in his dreams and awakenings ... In only a few hours, the torture chamber takes you back to the primeval forest with fear being the only reigning monarch. The meaning of life departs, and you are hung from a stupid void in which you are totally alone, desperately alone".<sup>(19)</sup>

The testimony of Carmel Budiardjo also draws attention to the psychological assault caused in the cases she describes by a deprivation of the basic necessities of life. She states that "In the absence of any knowledge about their status or prospects, tapols (political prisoners) live through these endless years of incarceration in an atmosphere of deep frustration, anguish and despair side by side with a serious lack of food, with overcrowding in many places, with no supply of clothing or sleeping equipment. The frustration and anxieties created by this complete lack of prospect constitutes the cruellest form of mal-treatment."<sup>(20)</sup>

### C. FACTORS MOTIVATING TORTURE

The reasons why torturers torture may be: firstly, as a method of interrogation to extract confessions, true or false, for the sake of rapid and simplified prosecution; secondly, as a means of obtaining information when other methods of investigation are less fruitful and less rapid; and thirdly as a method of intimidating "potential dissenters".

This last category is illustrated by the situation in Guatemala. It has been reported that the hundreds of unexplained deaths in the rural parts of Guatemala are the result of a determined drive by the Guatemalan authorities to intimidate and frustrate peasants and radicals who are likely to become

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(18) Loc. cit. at p. 3

(19) *ibid*, at p. 18

(20) Loc. cit. at p. 6

involved in subversive political activity.

It should be stressed, however, that although torture victims are arrested and detained for political reasons, torturers often make it clear that there is for them an element of personal gratification in their torture practices. For example, Julius S. Giron (already referred to) in his testimony states: "At 8.00 p.m. we were back at M-2 office Camp Crane. I was given a limited amount of food for supper. I was seated and ordered to face the wall. Most of the intelligence personnel at M-2 landed fist blows, karate blows and kicks on different parts of my body, at will. Eddie Abalos of M-2 bumped my head on the wall. My ears were simultaneously hit with his hands. I believe it was no longer an act of "procedural interrogation" but thrill, sadism. They were heartened by it". (21)

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(21) Loc.cit. at p.2