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# One Hundred Countries Use Torture

**What would you say are the global trends in relation to torture and trauma?**

I cannot tell you with any precision because there are no reliable statistics. What we know is that torture is used in many countries. In some it is used systematically, in others sporadically, with more than 100 countries in the world practising torture.

Torture is not only the systematic and deliberate infliction of pain and suffering by one person on another, but torture also includes inhuman and degrading treatment, which can happen without intent and is less serious than the former. Cruel and degrading treatment may include prison overcrowding, lack of basic services, etc. This happens just about everywhere in the world.

**How would you define the situation in the Middle East?**

There are reports that human-rights abuses were committed before and since the Arab Spring. I have read reports about this happening in Bahrain, Tunisia, and of course Syria. In Egypt there was much repression at the time when Mubarak was ousted. Unfortunately, there was excessive use of force in demonstrations, and

extreme cases of cruel and degrading treatment.

**What should be the response of the international community?**

The international community has to uphold the notion that torture is an international crime – even though it happens in an isolated environment –and that means that the state has an obligation to investigate, prosecute and punish every act of torture. It is indeed unfortunate that the international community has not always put pressure on states to live up to the standards required. International monitoring takes place through the Special Rapporteurship and through the Committee against Torture, the Subcommittee on the Prevention of Torture and also by resolutions. But more needs to be done on a consistent and sustained basis, until we see that the countries that torture pay a high political price for doing so and make changes to their institutions.

**The Optional Protocol to the Convention against Torture was established to allow for international inspections in places of detention. How is it being implemented?**

PHOTO:

It is actually going quite well. Now that 50 states are parties to the Protocol we can say that it is growing at a good pace, considering that it is not all that old. A subcommittee made up of 25 member countries can now visit any of the 50 countries regularly, or without warning the governments of their visits.

Member countries visited will be issued reports and as a result may have to create national preventative mechanisms and implement them. Hopefully it will prevent the use of torture and inhumane, cruel and degrading treatment. But the level of implementation varies from state to state even among those that have signed the Protocol and ratified it.

**You have said that the US military is culpable of inhumane and cruel treatment for holding Bradley Manning on suspicion of being the Wikileaks source in solitary confinement for more than two years. Did you visit him in prison?**

I was denied access. I sent a request to the government and was invited but I was told that they could not guarantee our conversation would not be monitored and even used in court. Of course I declined. Under the rules the military is supposed to operate, they had to allow me to hold private conversations with Manning. Manning wanted to go ahead, but I could not see the point.

**Is torture still used in the US?**

Not frequently. In investigations of suspects of common crime, it is now used infrequently. But the US has unfortunately softened their stand against torture because of the war on terror. We saw the infamous torture memos written during the Bush Administration. It shows clearly that they applied torture, including water boarding and a combination of other techniques to detainees. It looks like it did take place extensively.

Now that President Obama reinstated the prohibition, we have not heard of any new cases of torture, but prolonged solitary confinement is a problem. It is used not only in Guantanamo but throughout the US for detainees accused of terrorism, threat to national security and even in immigration detention. Prolonged solitary confinement in some cases is almost torture or at least cruel and degrading treatment.

I have called for a specific ban of some forms of prolonged solitary confinement. I have said it should

be banned for young detainees, and for any person with mental disabilities. I do agree that on a limited basis there are some legitimate reasons. We should ban anything beyond 15 days or maximum 30 days. Prolonged confinement should not last for months or years.

**Did you visit Guantanamo?**

My predecessor and other special rapporteurs were invited to visit it in 2004 but with conditions they could not accept. I renewed the request to visit it in 2010 but the same conditions were imposed. They could only allow a guided tour and would include some of the facilities but not all of them, and I could not talk to the inmates, so I declined.

**You were arrested in Argentina during the dictatorship, what prompted your arrest?**

I was actually arrested prior to the military dictatorship under the government of Isabel Peron, which was also repressive and was replaced in 1976 by the military junta. I was arrested because I was a lawyer defending political prisoners and investigating cases of abuse. I was not the only case, 125 lawyers disappeared during the dictatorship. I was tortured and after 18 months I was escorted to a plane and asked to leave Argentina for good.

The common practice at the time was to hold the detainees in clandestine detention centres. I was taken to several places. I am not even sure where I was as I was blindfolded all the time. I was tortured while they asked questions. They wanted to know the names of other lawyers. I remember the torture and I had nightmares. Over time I overcame that but it is something that remains with you forever. It does not go away and I don't want it to go away because I want it to be a source of commitment for my work in human rights.

**In the 1980s there was great hope in Latin America during the democratic transition when human rights enshrined in the Constitutions would be extended to all citizens, however practices and attitudes of state agents in the criminal justice systems haven't changed all that much.**

Yes, however since then there have been positive human-rights advances. Most Latin American countries now have democratic governments elected by the people who tend to observe democratic principles, with

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the exception of Colombia where drug trafficking and violence is pervasive.

From time to time there is arbitrary and perhaps authoritarian use of power, attacks on freedom of expression and attempts to overrun the independence of the judiciary.

There is also progress made in revisiting the past and making sure that it doesn't happen again, by prosecuting the perpetrators of human-rights abuses in the dictatorships.

In Latin America there is still economic, social and cultural inequality. In this area there has not been as much progress as in political rights.

Not all problems are over though. There are still tensions, police brutality, particularly against young men. Venezuela and Brazil rate low in terms of prison conditions, also some prevention prisons in Argentina. The juvenile detention systems are in bad shape just about everywhere.

In the case of Brazil cruel and degrading treatment of prisoners occurs because of the deplorable and overcrowded, unsanitary conditions, which amount to cruel and degrading treatment.

Much torture is most likely to happen in pre-trial detention. This is where the victim is most defenceless. Many people are sent to prisons and forgotten about and they spend time without lawyers or access to services, without being able to challenge decisions that placed them there.

**Is there a time limit for pre-trial detention?**

Yes the law prescribes time limits. Pre-trial detention even when authorised should not last more than two years. Unfortunately the criminal justice systems are overwhelmed by large case loads, the chaotic nature of the courts, and the lack of resources. As a result, the statutory limits on pre-trial detention are ignored.

**How do you see the future in relation to human rights? The number of wars has decreased and we live in a relatively peaceful time, according to political analysts and researchers, yet the use of torture prevails.**

I think in the future the intensity may change and the number of victims, but torture may not disappear completely. I think torture happens when nobody is looking, particularly when countries don't have a strict prohibition and don't prosecute perpetrators. Then torture becomes a common practice, a common way of circumventing otherwise more complicated means of solving crimes. It is relatively easy for interrogators to go back to torture when they know they will not be punished for it.

I have not lost my optimism, perhaps one day will

come when we can consider torture effectively abolished everywhere in the world. But I am afraid there is still a long way to go.

There is no doubt that since 9/11 we have lost a number of battles against torture because popular culture has conditioned us to think that it is inevitable, that it may make us safer so we might as well look the other way since there is nothing we can do about it. These are myths of course but are deeply entrenched in our culture. There is a degree of acceptance and tolerance now, though NGOs and the public have been strong in their stand against torture.

**Should the US investigate and prosecute President Bush?**

I don't know about prosecuting individuals. President Obama has refused to even consider investigations of the crimes committed under the so-called torture labels.

**One way to eradicate torture would be to reform police and the prison system and work on changing the culture. What are your views on that?**

There have been some attempts at reform, which although not completely successful have produced positive outcomes. There are organisations dedicated to reforming those institutions. The problem is not that there is lack of knowledge or expertise about police reform or correctional reform, the problem is a lack of political will to fulfil the international obligations. Another problem is that these institutions are strapped for resources.

Unfortunately even though it is obvious that we need a trustworthy policy, healthy and decent prisons, these needs rate low in the political agendas of today's politicians who get elected on promises of harsh tactics to fight crime. That destroys any possibilities of reform because obviously the police feel that they are protected by politicians.

Human-rights training and capacity building for internal investigations are important, however it is the commitment of states to fulfil the international obligations that is crucial. They have a binding obligation to investigate, prosecute and punish every single act of torture.

It is unfortunate that when there are complaints about torture in order to be able to prosecute the perpetrator the state will demand evidence. It is not always possible to produce evidence because medical examinations have been done too late, or by doctors not trained for it, or simply perpetrators have used techniques that leave no traces on the body. But it doesn't mean torture has not been used. This continues to create a culture of impunity. So yes, there is still a long way to go. R