

## **Backsliding on torture**

In the ongoing struggle to outlaw torture, there are two significant instruments:

**The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (commonly known as the United Nations Convention against Torture)**

and

**The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment**

### **The UN Convention against Torture**

- was adopted by the UN General Assembly on 10<sup>th</sup> December 1984;
- came into force on 26<sup>th</sup> June 1987 following ratification by the 20<sup>th</sup> state party.

26<sup>th</sup> June is now known as the International Day in Support of Victims of Torture. As of March 2016, the Convention has 159 state parties.

The Optional Protocol allowing for "a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment" has been in force since June 2006. As of September 2015, the Protocol has 75 signatories (i.e. countries which have signed the convention and thus stated their intention to make it binding) and 80 parties (i.e. countries which have ratified the convention and thus made it legally binding).

States which have not signed include Barbados, Bhutan, Central African Republic, Grenada, Iran, Jamaica, North Korea, Malaysia, Myanmar, Oman, Papua New Guinea, Singapore, Surinam, Trinidad & Tobago, Tanzania and Zimbabwe.

States which have signed but not ratified include Angola, Bahamas, Brunei, Gambia, Haiti, India and Sudan.

### **The European Convention for the Prevention of Torture**

- was adopted by the member states of the Council of Europe on 26<sup>th</sup> November 1987;
- has been ratified by all 47 of the Council of Europe's member states, and ratification of the Convention has been a pre-condition for all states who have joined the Council of Europe in the last few years;
- is overseen by the Committee Against Torture which carries out regular unannounced visits to places of detention in the member states.

Torture has been described as "the mother of all human rights violations". As long as countries practise torture, people will be unwilling to assemble and will not speak or write openly about their criticisms of their government.

If a government has signed and/or ratified one or both of these conventions, they have allowed themselves to be held to account for their actions.

### **But what do we do when there is evidence that a country is backsliding?**

In July this year, *Ireland* announced its plans to deport a Jordanian man of Palestinian origins as he was regarded as a security threat. Attempts to prevent the deportation through the European Court of Human Rights were unsuccessful even though there was evidence that the man (who cannot be identified) would be at risk of torture on his return to Jordan, because he had been publicly linked with the “Islamic State” (IS). The director of Amnesty International, Colm O’Gorman, said: *“This deportation is a deeply worrying signal about the Irish authorities’ attitude towards the absolute prohibition against torture. International law prohibits Ireland from returning anyone to a country where they would be at real risk of torture or other serious human rights violations. It’s a very bad day for human rights when a government tries to send someone back to a country they know he will almost certainly be tortured in.”*<sup>1</sup>

In *Tunisia*, concerns have been raised about deaths in custody and torture in prisons in the five years since the former dictator was ousted. Tunisia has often been regarded as a rare bright spot in the region, with a coalition of civil society groups which won the Nobel Peace Prize in 2015 for helping the country to overcome political divisions. However, a recent state of emergency gave security forces wider powers and led to hundreds of people being arrested without warrants.<sup>2</sup>

And, always, in Europe we must remain concerned about the situation in *Turkey*. In July 2016, OMCT (World Organisation Against Torture) warned about the state of emergency and its concern that *“floodgates for abuse have been put wide open.”*<sup>3</sup>

Under the auspices of the Council of Europe's Committee Against Torture, recent reports indicate worrying situations in Serbia (“allegations of physical ill-treatment of prisoners by police officers and also in prisons”)<sup>4</sup>, but were encouraging about the improved situation in Moldova.<sup>5</sup> Once again we are reminded of the essential role of the Council of Europe in ensuring standards of human rights.

In June 2016, Mykola Gnatovskyy, President of the Council of Europe European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) joined with Malcolm Evans, Chairperson of the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment (SPT), to issue the following statement:

*“Violent and so-called frozen conflicts, large-scale refugee and migration flows as well as international terrorism pose clear threats for the treatment of individuals who are deprived of their liberty in connection with these phenomena. The economic crisis has also impacted negatively on the treatment of people in detention in many countries. When facing these challenges, states are often tempted to cut corners with human rights. While*

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1 <https://www.amnesty.org/en/latest/news/2016/07/ireland-deportation-to-jordan-would-risk-backsliding-on-absolute-ban-on-torture/>

2 <http://www.npr.org/sections/thetwo-way/2016/01/14/463033725/5-years-after-ousting-a-dictator-is-tunisia-backsliding-on-human-rights>

3 <http://www.omct.org/monitoring-protection-mechanisms/urgent-interventions/turkey/2016/07/d23871/>

4 <http://www.cpt.coe.int/documents/srb/2016-06-24-eng.htm>

5 <http://www.cpt.coe.int/documents/mda/2016-06-30-eng.htm>

*fighting terrorism or managing migration flows are legitimate objectives, they can never justify inflicting ill-treatment on persons deprived of their liberty or detaining people in inhuman or degrading conditions.*

*In the current climate of instability prevailing in many parts of the world, it is essential to recall the absolute prohibition of torture and other forms of ill-treatment. Crucially, this also entails an obligation of prevention. The preventative role of independent international and national bodies that monitor the treatment of persons deprived of their liberty is now more important than ever. We therefore call on states to enhance their cooperation with these bodies, to respect fully their mandate and powers and to make good use of the guidance they provide, with the common goal of preventing new victims of torture.”<sup>6</sup>*

## **And the UK?**

Many of us will have been observing with concern the statements of Theresa May, first as Home Secretary and now as Prime Minister, about her attitude towards the European Convention on Human Rights and her plan for a “British Bill of Rights”. In the words of a group of torture survivors united by the NGO “Freedom from Torture”, *“a ‘British’ Bill of Rights suggests that the government gets to decide human rights. It takes away the universality of rights. It takes away the human”*.<sup>7</sup> As Q-CAT has helped to highlight in our briefings and in our commissioned theatre piece “Feeding the Darkness”, torture is made possible because the perpetrators are taught to differentiate between “us” and “them”. The Conservative government has consistently and stealthily worked to undermine the accepted condemnation of torture, for example, by its intention to overturn legislation which forbids the removal of a person to a country where they face a real risk of being tortured.

In October 2016, Theresa May announced that she was planning to allow the government to adopt a presumption that it will “derogate” from the European Convention on Human Rights at times of war. She said that this would end what she called an “industry of vexatious claims” of alleged mistreatment of combatants and prisoners, brought against soldiers in Iraq and Afghanistan. She is also planning new penalties for firms which “drum up support” for such cases. This follows the collapse of Public Interest Lawyers which had represented many of those complaining against British armed forces. The Iraq Historical Allegations Team (IHAT), which was set up in November 2010 to look into allegations of abuse, torture and murder of Iraqi civilians by UK military between 2003 and 2009, has considered claims relating to more than 1,500 individuals. These claims ranged from ill-treatment to death by shooting.

There is a precedent, as the UK applied such a derogation in the 1970s during the Northern Irish Troubles, with the support of the European Court of Human Rights. France took the same step in November 2015 immediately following the terror attacks in Paris.

Members of the armed forces have unsurprisingly reacted positively to these proposals. It is of the utmost concern that military personnel will now feel able to act with impunity, knowing that any lapses from the expected standard of behaviour will not be pursued.

## **What you can do**

### **In the UK:**

Be aware of the sinister developments taking place within the government and the continuing erosion and undermining of our human rights. The UK is party to both the

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<sup>6</sup> <http://www.cpt.coe.int/en/press/2016-06-24-eng.htm>

<sup>7</sup> [http://www.huffingtonpost.co.uk/sonya-sceats/human-rights-act-torture-ban\\_b\\_10024258.html](http://www.huffingtonpost.co.uk/sonya-sceats/human-rights-act-torture-ban_b_10024258.html)

international Conventions against Torture and must be held to account. Be aware of the work done by organisations such as Liberty and Freedom From Torture to counteract these developments. Write letters, attend or arrange meetings; do not give up.

### **Outwith the UK:**

In spite of the referendum result, we are still part of Europe. Leaving the EU does not automatically mean leaving the Council of Europe (although some may fear that this is the Prime Minister's ultimate goal). We need to continue our support for the Quaker Council for European Affairs which, as a European NGO, has the right to be heard by the European institutions – a right which British NGOs will lose post-Brexit.<sup>8</sup> One of the institutions where QCEA is well-respected is the Council of Europe. As well as following QCEA's reports on the work of this institution, keep an eye on the Committee on Torture web-page which is regularly updated with details of visits and inspections.<sup>9</sup>

You might also wish to choose a particular country to focus on, and keep yourself informed if that country is backsliding on its commitments under the two Conventions. If so, you could support the country-specific work of Amnesty International, contact the diplomats and politicians of that country, and where possible, make your views known to the Parliamentary Group dealing with that country.

### **And finally:**

Read the speech given by Juan Mendez, the UN's special rapporteur on torture, at an event in London in October 2015, organised by Freedom from Torture: ***The case against backsliding on the torture ban.***<sup>10</sup> This was summarised in Q-CAT Newsletter No 23 for March 2016.

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The next Newsletter is planned for early December.  
The next Briefing is planned for mid-January.

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8 <https://qceablog.wordpress.com/2016/10/04/qcea-needed-more-than-ever/>

9 <http://www.cpt.coe.int/en/default.htm>

10 <https://www.freedomfromtorture.org/document/reports/8653>