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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:  
TORTURE AND DETENTION

Written statement\* submitted by the International Rehabilitation Council for Torture Victims, a  
non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 January 2003]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The IRCT would like to draw the attention of the Commission to a number of relevant issues related to the implementation of the prohibition against torture and other cruel, inhuman or degrading treatment and punishment.

The IRCT is deeply concerned that a proposal to condone the use of certain forms of torture in the interrogation of suspected terrorists continues to be canvassed by various commentators and defence analysts writing in the European and North American media. Most recently, the Economist magazine, in its January 9 2003 issue, published a series of articles under the heading 'Is Torture Ever Justified? Earlier articles, published in the Washington Post and elsewhere, quoted US officials who described a variety of so-called 'stress and duress' methods said to be currently employed in the interrogation of Al-Qaeda suspects, among them sleep deprivation, hooding, and forcing prisoners to hold awkward positions for hours, some of which have been found by the UN Committee against Torture or by regional and national courts in Europe and the Americas to constitute torture or cruel treatment. The officials interviewed also said that some suspects had been handed over, in contravention of the refoulement provisions in article 3 of the Convention against Torture, to unnamed third countries for interrogation, together with lists of information sought.

These reports, if true, are the clearest indication yet that restrictions on civil and political rights introduced by Western Governments in response to the threat of terrorism may be having a degrading effect on respect for, and implementation of, fundamental human rights guarantees.

While the public international consensus on the absolute prohibition, as expressed in the Convention against Torture and many other international human rights instruments, remains intact for the time being, the international community must remain vigilant. The condoning, officially or otherwise, of 'limited' forms of torture is an extremely dangerous slippery slope, the moral and social consequences of which can already be seen in those societies where torture has been practiced on a widespread scale.

Governments have a responsibility to speak out categorically on this issue, and not to remain silent when allegations are made that torture or other forms of cruel treatment have been used by security or intelligence personnel. Silence, in circumstances such as these, can easily be misinterpreted as complicity.

In the work against torture and in support of victims of torture, the proper documentation of individual cases is fundamental. Documentation of violations provides the evidence necessary to ground a successful prosecution or claim for compensation. In many cases, it provides the only information on which regional and international mechanisms working with the subject of torture, including the Special Rapporteur and the Committee against Torture, can take action.

In this respect, the Istanbul Protocol, endorsed by the Commission on Human Rights and now published in the Office of the High Commissioner for Human Rights' Professional Training Series, provides comprehensive, practical guidelines for the assessment of persons who allege torture and ill treatment, for investigating cases of

alleged torture and for reporting the findings to the relevant authorities.

The IRCT is pleased to inform the Commission that it has recently, in collaboration with the World Medical Association, the Human Rights Foundation of Turkey and Physicians for Human Rights, begun work on a major new project, being carried out with the support of the European Commission, to promote the global implementation of the Istanbul Protocol.

At this session, the IRCT would like to bring the subject of redress, an important one that is often under-prioritised by the international community, to the particular attention of the Commission.

Redress involves official recognition that harm has been done to the person in question. Article 14 of the Convention against Torture guarantees the right of torture victims to obtain reparation, including redress, fair and adequate compensation and the means for as full rehabilitation as possible. Members of the UN Committee against Torture have regularly emphasised that the obligation of Article 14 involves not only the provision of material compensation and redress, but also physical, mental and social rehabilitation.

In those few countries where reparation schemes have been established for former victims of torture, the emphasis has tended to be on judicial or administrative procedures, rather than social or medical ones. Rehabilitation or reintegration activities have sometimes been seen as being the responsibility of civil society organisations, or, alternatively, to be an issue that can be addressed by the public health system, without any further involvement on the part of the State.

In order for the right to rehabilitation to be realistic, there needs to be a corresponding duty for the State to ensure that the necessary knowledge and facilities are present in the country. To this end, States should promote the acquisition of appropriate knowledge and skills within the relevant legal, medical, psychological and social professions, and support the establishment of treatment facilities and services.

The draft UN Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law (the draft Basic Principles),

Developed during the 1990s by Professor van Boven and Bassiouni, attempt to address the right to reparation from a victim-based perspective, organising principles from all legal sources according to the needs and rights of victims. The result is a groundbreaking document, one that fills a gap in the existing international system of human rights protection.

In the words of the preamble to draft Principles, by recognising the right of victims to benefit from remedies and reparation, the international community keeps faith and human solidarity with victims, survivors and future human generations, and reaffirms the international legal principles of accountability, justice and the rule of law.

The IRCT has been closely following the development of the Draft Principles since the early 1990s and wishes to express its great appreciation for the work done by Professors van Boven and Bassiouni during that time. We believe the time is now

ripe for these efforts to be brought to fruition.

In this respect, the IRCT hopes that an effective mechanism will be established during this session of the Commission to enable the early finalisation and adoption of these very important guidelines. The IRCT believes that the most appropriate mechanism for finalising the text of the Guidelines would be a consultative meeting mandated to prepare a revised, draft text for the consideration of the Commission at its 60<sup>th</sup> session.

The IRCT warmly welcomes the adoption of the Optional Protocol to the Convention against Torture (the Optional Protocol) by the General Assembly on 18 December 2002, and we encourage States Parties to the Convention against Torture to consider ratifying it with a view to its early entry into force. At the same time, we would urge States to continue to support existing domestic prison visits initiatives, some of which have been taking place for many years. The IRCT believes it is important that Governments take into account and make use of the expertise that already exists at the national level, in rehabilitation centres and in other national NGOs with expertise in the prevention of torture, in establishing, training and selecting members of the national preventative mechanisms.

Finally, the IRCT would like to once again emphasise the need for increased contributions to the United Nations Voluntary Fund for Victims of Torture. The number of applications made for support, not to mention the overall global needs, continue to outweigh the quantum of funds available for distribution each year. In this respect, the IRCT calls on those Member States yet to make a contribution to the Fund to do so for the first time during 2003.

Contributions to the Voluntary Fund are of particular importance this year, in view of recent policy changes made by the European Union. Having been one of the major donors in the field of rehabilitation of torture victims for a number of years, the EU has now decided to redirect some of this funding towards prevention initiatives. Although the IRCT encourages the EU's actions in support of the prevention of torture, we do not think these should be at the expense of initiatives in support of victims. The changes will have a marked effect on rehabilitation capacity worldwide, and we invite UN Member States to take this unfortunate development into consideration when considering their contribution to the Fund.

The IRCT is an independent, international health professional organisation, which promotes and supports the rehabilitation of torture victims and works for the prevention of torture worldwide. The IRCT collaborates with, or supports, more than 200 rehabilitation centres or programmes in every region of the world. The vision of the IRCT is a world that values and accepts shared responsibility for the eradication of torture.

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