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

Torture and other cruel, inhuman or degrading treatment or punishment

Report of the Special Rapporteur, Theo van Boven*

Summary

The Special Rapporteur on the question of torture, Theo van Boven, submits his third report to the Commission. Chapter I summarizes the activities of the Special Rapporteur in 2003. Chapter II describes the types of communications sent to the Governments by the Special Rapporteur and describes the urgent appeals procedure. In chapter III, the Special Rapporteur draws attention to a number of guarantees for individuals deprived of their liberty with a view to protecting them from the risk of torture and other forms of ill-treatment. Chapter IV examines the question of HIV/AIDS and torture. Chapter V contains some information on the follow-up to the preliminary study of the Special Rapporteur on the situation of trade in and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment, its origin, destination and forms (E/CN.4/2003/69). The annex to the report contains an index of the reports submitted by the three successive mandate-holders.

A summary of communications sent by the Special Rapporteur and the replies thereto from Governments from 15 December 2002 to 15 December 2003, as well as a number of country-specific observations, is found in addendum 1 to the report. In addendum 2, the Special Rapporteur presents his report on his visit to Spain. A summary of the information provided by Governments and non-governmental organizations on implementation of the recommendations of the Special Rapporteur following country visits is found in addendum 3.

* The endnotes are circulated in the language of submission only.

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Introduction

1. The mandate of the Special Rapporteur on the question of torture, created in 1985 and exercised since November 2001 by Theo van Boven (the Netherlands), was renewed for three more years by the Commission on Human Rights in its resolution 2001/62. In accordance with Commission resolution 2003/32, the Special Rapporteur hereby submits his third report to the Commission.
2. Chapter I summarizes the activities of the Special Rapporteur in 2003. Chapter II describes the types of communications sent to Governments by the Special Rapporteur and describes the urgent appeals procedure. In chapter III, the Special Rapporteur draws attention to a number of guarantees for individuals deprived of their liberty with a view to protecting them from the risk of torture and other forms of ill-treatment. Chapter IV examines the question of HIV/AIDS and torture. Chapter V contains some information on the follow-up to the preliminary study of the Special Rapporteur on the situation of trade in and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment, its origin, destination and forms (E/CN.4/2003/69).
3. A summary of communications sent by the Special Rapporteur and the replies thereto from Governments from 15 December 2002 to 15 December 2003, as well as a number of country-specific observations, is found in addendum 1 to the report. In addendum 2, the Special Rapporteur presents his report on his visit to Spain. A summary of the information provided by Governments and non-governmental organizations on implementation of the recommendations of the Special Rapporteur following country visits is found in addendum 3.
4. In the reports submitted to the Commission and the General Assembly, the Special Rapporteur and his predecessors have examined issues of special concern with respect to torture and other forms of ill-treatment. The annex to the report contains a list of the issues considered to date.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

5. From 6 to 10 October 2003 the Special Rapporteur visited Spain (see E/CN.4/2004/56/Add.2). Since the fifty-ninth session of the Commission, consultations in relation to visits have continued with the Governments of Bolivia, China, Georgia and Nepal. In accordance with Commission resolution 2003/11 (para. 5 (h)), the Special Rapporteur has also requested the Government of Turkmenistan to extend to him an invitation to visit the country. A similar request has been made to the Government of Equatorial Guinea. The Special Rapporteur notes with regret that to date the invitations requested in previous years to the following countries have not been forthcoming: India (1993), Indonesia (1993), Egypt (1996), Algeria (1997), Tunisia (1998), the Russian Federation with respect to the Republic of Chechnya (2000) and Israel (2002). Ten years have now passed without satisfactory responses to his repeated requests to visit India and Indonesia. In this connection, attention is drawn to Commission resolution 2002/84 entitled "Human rights and thematic procedures" with its emphasis on cooperation with the Commission through pertinent thematic procedures.

6. The Special Rapporteur recalls paragraph 36 of Commission on Human Rights resolution 2001/62, in which the Commission “[R]equests the Special Rapporteur to continue to consider inclusion of information in his report on the follow-up by Governments to his recommendations, visits and communications, including both improvements and problems encountered”. As indicated in the last report to the Commission, the Special Rapporteur has reminded Governments of countries where a visit has taken place of the observations and recommendations formulated in the respective reports. The Special Rapporteur has requested information on the consideration given to these observations and recommendations, the steps taken to implement them, and any constraints which may prevent implementation. At the time of writing, the Special Rapporteur has received information from the Governments of Azerbaijan, Chile, Mexico, Romania, Turkey and Uzbekistan, as well as from non-governmental organizations (NGOs). This information is reflected in addendum 3 to the present report. The Special Rapporteur reiterates his continuing interest in receiving follow-up information on country visits.

7. From 19 to 25 February 2003 the Special Rapporteur attended a part of a session of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States. Both members of IACHR and the Special Rapporteur stressed the importance of adopting consistent approaches to the fight against, and the prevention of, torture and ill-treatment. A commitment was made to foster collaboration between the two mechanisms through an exchange of information and common strategies, and possible future joint actions were discussed.¹ The Special Rapporteur appreciated the assistance provided to him by the Association for the Prevention of Torture (APT)² during these consultations.

8. On 15 May 2003, the Special Rapporteur met again with the Committee against Torture and with the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, with a view to strengthening the collaboration among United Nations mechanisms dealing with the question of torture. Issues of common interest were discussed, including those related to the expected entry into force of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which establishes a framework to allow visits by independent international and national bodies to places of detention.

9. From 23 to 27 June 2003, the Special Rapporteur participated in the 10th meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights. Among the issues discussed were enhancing the effectiveness of the special procedures system and capacity-building (see E/CN.4/2004/4).

10. On 25 June 2003, the Special Rapporteur participated in a round-table discussion on the prohibition of torture in the context of anti-terrorism measures. It was organized by the World Organization against Torture³ (OMCT), the Swiss section of Action by Christians for the Abolition of Torture⁴ (ACAT), APT and Amnesty International.⁵

11. On 26 June 2003, on the occasion of the United Nations International Day in Support of Victims of Torture, the Special Rapporteur, together with the Committee against Torture, the Board of Trustees of the Voluntary Fund for Victims of Torture, and the United Nations

Deputy High Commissioner for Human Rights issued a joint statement (see A/58/120, annex I). It encouraged States to ratify the Optional Protocol to the Convention against Torture and to set up national mechanisms allowing visits to places of detention.

12. On the same day, the Special Rapporteur participated in the launch of a handbook by Amnesty International entitled “Combating torture: A manual for action”.⁵ The Special Rapporteur welcomes the handbook and considers it an invaluable tool for advocacy and action against torture.

13. On 30 June 2003, the Special Rapporteur attended a day of discussion on HIV/AIDS and human rights jointly organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Joint United Nations Programme on HIV/AIDS (UNAIDS). The objective of this meeting, addressed to mandate-holders of special procedures of the Commission on Human Rights, was the development of a strategic approach to the integration of HIV/AIDS-related issues into their work. The Executive Director of UNAIDS and the Acting High Commissioner for Human Rights also participated in this meeting. Some preliminary considerations concerning HIV/AIDS in relation to torture are presented in chapter IV of the present report.

14. On 4, 5 and 6 August 2003, the Special Rapporteur met with Alejandro Salinas and M. Cherif Bassiouni with a view to preparing a revised version of the “Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law”, as requested in Commission on Human Rights resolution 2003/34. A second consultative meeting was held from 20 to 24 October 2003, during which the revised version of the Basic principles was reviewed by Governments, intergovernmental organizations and NGOs (see E/CN.4/2004/57).

15. On 23 and 24 October 2003, the Special Rapporteur participated in a conference organized by the International Commission of Jurists⁶ on the theme “Human rights and counter-terrorism: international monitoring systems”. In his intervention the Special Rapporteur noted with concern that there was trend in some sectors to erode the universal consensus on the prohibition of torture and the absolute nature of this prohibition. He stressed that torture and other forms of ill-treatment cannot be derogated from under any circumstances.

16. On 11 November 2003, the Special Rapporteur presented his second report to the General Assembly (A/58/120) pursuant to Assembly resolution 57/200 (para. 31) and Commission on Human Rights resolution 2003/32 (para. 34). In his statement, he addressed the following issues: the absolute prohibition of torture; recent conclusions, recommendations and other findings issued by international and regional human rights monitoring bodies on the issue of the prohibition of torture and other forms of ill-treatment in the context of anti-terrorism measures; a summary of his preliminary study on the situation of trade in and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment; a follow-up to the views on the issue of reparation for victims of torture submitted by his predecessor in his report to the General Assembly at its fifty-fifth session; and the question of the prevention of torture and other forms of ill-treatment in psychiatric institutions in the light of existing international norms, principles and guidelines.

17. On 27 November 2003, the Special Rapporteur met with the Executive Secretary and members of the staff of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Matters of common interest were discussed.

18. On 10 December 2003, on the occasion of the International Human Rights Day, the Special Rapporteur, together with other special procedures of the Commission on Human Rights, condemned all acts of intimidation and reprisal against individuals and groups who seek to cooperate, or have cooperated, with the United Nations or representatives of its human rights bodies. In this context, they urged States to refrain from violating the rights of these individuals and groups, in particular, to be free from torture, and to protect them from threats, intimidation and reprisals from private individuals or groups.

II. COMMUNICATIONS TRANSMITTED BY THE SPECIAL RAPPORTEUR

19. During the period under review, 15 December 2002 to 15 December 2003, the Special Rapporteur has continued to receive and transmit information on allegations of torture. He has sent 154 letters to 76 countries. The Special Rapporteur has also sent 71 letters reminding Governments of a number of cases that had been transmitted in previous years. He has sent 369 urgent appeals to 80 countries on behalf of individuals with regard to whom serious fears had been expressed that they might be at risk of torture or other forms of ill-treatment.

20. The Special Rapporteur would like to recall that in transmitting allegations and urgent appeals to Governments, he does not make any judgement concerning the merits of the cases, nor does he support the opinion and activities of the persons on behalf of whom he intervenes. As it has been made clear in previous reports, no matter how wrongly, dangerously, or even criminally a person may act, every human being is legally and morally entitled to protection on the basis of internationally recognized human rights and fundamental freedoms. This applies a fortiori where a non-derogable right, such as the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, is involved.

21. As explained in previous reports, the letters sent to Governments contain summaries of individual cases of torture and, where applicable, include general references to the phenomenon of torture, such as alleged systematic patterns of the practice of torture, patterns relating to a specific group of victims or of perpetrators, or specific legislation deemed not sufficient to guarantee the right to physical and mental integrity. In these letters, the Special Rapporteur requests the Government concerned to clarify the substance of the allegations and urges it to take steps to investigate them, prosecute and impose appropriate sanctions on any persons guilty of torture regardless of any rank, office or position they may hold, take effective measures to prevent the recurrence of such acts and ensure reparation to the victims or their relatives, in accordance with the relevant international standards.

22. When the Special Rapporteur receives reliable information that gives grounds to fear that a person may be at risk of torture or other forms of ill-treatment, he may transmit an urgent appeal to the Government concerned. The urgent appeals sent by the Special Rapporteur have a humanitarian and preventive purpose. Their scope and nature have been explained in previous reports. In the present report, the Special Rapporteur would like to provide the Commission with more detailed information on the practice of the urgent appeal procedure.

23. The circumstances that lead to the dispatch of urgent appeals are diverse and manifold. They include: incommunicado detention; prolonged solitary confinement; detention at an undisclosed location; lack of essential medical care or treatment; inhuman prison conditions; forced administration of drugs; corporal punishment and other forms of imminent cruel and inhuman punishment; imminent execution following a death sentence imposed on the basis of a confession extracted under torture; serious threats to the life and physical integrity of an alleged torture victim or a third person; continued risk of being subjected to a variety of torture methods and practices; and a serious risk of extradition or deportation to a State where the person may be in danger of being subjected to torture.

24. Approximately two thirds of the urgent appeals signed by the Special Rapporteur are sent jointly with other thematic or geographic mandate holders. The most frequent co-signers are the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The Special Rapporteur has also acted on a considerable number of urgent cases together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur on the independence of judges and lawyers, and with specific country special rapporteurs. In a limited number of appeals, the Special Rapporteur has acted jointly with the Special Rapporteurs on violence against women, the human rights of migrants, the situation of human rights and fundamental freedoms of indigenous people, racism, racial discrimination, xenophobia and related intolerance, the right to health, adequate housing, and the right to education.

25. As stated above, during the period under review, the Special Rapporteur sent a total of 369 urgent appeals. This figure was, respectively, 294, 147 and 164 in the last three reports. The increase in the number of urgent appeals sent under the mandate on torture and other forms of ill-treatment is even more evident in the light of the number of such communications in earlier years: between 1994 and 1999, an average of approximately 50 urgent appeals were sent per year.

26. It is the Special Rapporteur's opinion that to enhance the effectiveness and impact of the urgent appeal procedure, coherent and regular follow-up is necessary. In this connection, a more systematic use of deadlines and reminders is envisaged, if available resources and means permit. The Special Rapporteur regrets that many Governments fail to respond to urgent appeals or respond solely to some selected appeals. The Special Rapporteur does not have the means to verify these answers, although in some cases they can be corroborated and contrasted with information received from other sources.

III. GUARANTEES FOR INDIVIDUALS DEPRIVED OF THEIR LIBERTY

27. Since his appointment, the Special Rapporteur has received information according to which basic guarantees against abuses of the human person are frequently set aside. The denial of these safeguards may fall - or may lead to situations which fall - within the scope of the mandate against torture and cruel, inhuman or degrading treatment.

28. In the light of the information received, the Special Rapporteur has observed that in the context of anti-terrorist measures, Governments are frequently remiss in upholding these legal safeguards. In this regard, the Special Rapporteur refers to his two previous studies on the prohibition of torture and other forms of ill-treatment in the context of anti-terrorism measures (see A/57/173 and A/58/120), where he highlights that this prohibition is of an absolute nature.

29. In the present report, the Special Rapporteur refers to a number of these basic safeguards contained in international human rights norms and standards, and to some of the general recommendations included in previous reports.

30. Arrests without proper procedures may open the door to further human rights abuses, including torture. The Special Rapporteur notes that to prevent such abuses, law enforcement officials should clearly identify themselves or, at least, the unit to which they belong. Their vehicles should be clearly identifiable and carry number plates at all times. Information on any arrest, including the reasons for the arrest, the time and place of the arrest, and the identity of the officers involved should be duly recorded. As specified in article 9 (2) of the International Covenant on Civil and Political Rights (ICCPR) and principles 13 and 14 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles on Detention), the arrested persons shall be informed, at the time of arrest, of the reasons for their arrest and of their rights, including safeguards against torture or ill-treatment.

31. Further, relatives or a third person of the arrested person's choice shall be notified at the time of arrest, detention, imprisonment or transfer. Reference is made to principle 16 of the Body of Principles on Detention and rule 92 of the Standard Minimum Rules for the Treatment of Prisoners. The Special Rapporteur also refers to his recommendation, included in his last report to the Commission on Human Rights: "In all circumstances, a relative of the detainee should be informed of the arrest and place of detention within 18 hours" (E/CN.4/2003/68, para. 26 (g)). With regard to the notification of detention of children, special safeguards should apply in accordance with principle 16 (3) of the Body of Principles on Detention and rule 10 (1) of the Standard Minimum Rules for the Treatment of Prisoners. As far as the detention of foreign citizens is concerned, the Special Rapporteur would like to refer to article 16 (7) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families which states that the consular authorities of the State of origin of a detained foreigner shall be informed without delay of his or her arrest or detention. This safeguard is also reflected in article 36 (1) (b) of the Vienna Convention on Consular Relations and in principle 16 (2) of the Body of Principles on Detention.

32. The Special Rapporteur frequently receives allegations according to which persons in custody do not have prompt access, if at all, to a lawyer. The Special Rapporteur is concerned that this situation, often combined with the non-respect of other safeguards, may facilitate acts of torture or other forms of ill-treatment. In this respect, the Special Rapporteur refers to article 14 of ICCPR and principle 17 of the Body of Principles on Detention. Further, in its general comment No. 20, the Human Rights Committee has stated: "the protection of the detainee also requires that prompt and regular access be given to ... lawyers" (para. 11). The Commission on Human Rights, in resolution 1994/37, has also stressed "[t]hat the right to have access to a lawyer is one of the basic rights of a person who is deprived of his liberty and that restrictions on this right should therefore be exceptional and always subject to judicial control". The

Special Rapporteur would like to recall that “legal provisions should ensure that detainees are given access to legal counsel within 24 hours of detention Security personnel who do not honour such provisions should be disciplined. In exceptional circumstances, under which it is contended that prompt contact with a detainee’s lawyer might raise genuine security concerns and where restriction of such contact is judicially approved, it should at least be possible to allow a meeting with an independent lawyer, such as one recommended by a bar association” (ibid.).

33. The Special Rapporteur has observed that incidents of torture or other forms of ill-treatment frequently occur in the period immediately following deprivation of liberty and during interrogation. The Special Rapporteur recalls that, in compliance with article 15 of the Convention against Torture, confessions made as a result of torture shall not be used as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

34. Some basic guarantees shall be applied to avoid torture during interrogation. In accordance with article 11 (combined with article 16) of the Convention against Torture, interrogation rules, instructions, methods and practices shall be kept under systematic review with a view to preventing cases of torture and other forms of cruel, inhuman or degrading treatment. Reference is made to principle 23 of the Body of Principles on Detention according to which the duration of interrogations, the intervals between each interrogation and the identity of the officials conducting the interrogation shall be recorded. The information recorded shall be available to the interrogated person and, when provided by the law, to his or her counsel. As the Special Rapporteur has previously recommended, “each interrogation should be initiated with the identification of all persons present. All interrogation sessions should be recorded, and preferably video-recorded, and the identity of all persons present should be included in the records. Evidence from non-recorded interrogations should be excluded from court proceedings. The practice of blindfolding and hooding often makes the prosecution of torture virtually impossible, as victims are rendered incapable of identifying their torturers. That practice should be forbidden. Those legally arrested should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pre-trial detention which, in any case, should not exceed a period of 48 hours. They should accordingly be transferred to a pre-trial facility under a different authority at once, after which no further unsupervised contact with the interrogators or investigators should be permitted” (ibid.).

35. In relation to guarantees during interrogation, the Special Rapporteur is of the opinion that, as provided by article 10 of the Convention against Torture, interrogators should receive training in order to ensure that they have the necessary skills to conduct interrogations and interview victims and witnesses. The Special Rapporteur fully supports the measures proposed by Amnesty International according to which these skills shall include the abilities to “gather all available evidence in a case before interviewing a suspect; plan an interview based on that evidence so that an effective interview can be conducted; treat an interview as a means of gathering more information or evidence rather than as a means of securing a confession; conduct an interview in a manner that respects the suspects’ rights; analyse information obtained during the interview, and carry out any further investigation into the case suggested by that analysis; check any admission or confession made by the suspect against available evidence; and evaluate each interview with a view to learning from each experience and developing interviewing and investigative skills further”.⁷

36. The Special Rapporteur considers that prompt and independent medical examination upon a person's admission to a place of detention, as provided by rule 24 of the Standard Minimum Rules and principle 24 of the Body of Principles on Detention, constitutes one of the basic safeguards against ill-treatment. The Special Rapporteur reiterates his recommendation that "at the time of arrest, a person should undergo a medical inspection, and medical inspections should be repeated regularly and should be compulsory upon transfer to another place of detention" (ibid.). Further, in accordance with, inter alia, article 6 of the United Nations Code of Conduct for Law Enforcement Officials, rules 22 to 26 of the Standard Minimum Rules and principle 24 of the Body of Principles on Detention, the protection of the health of persons in custody shall be ensured during the whole period of detention.

37. The safeguards described above are particularly undermined when the detained persons are kept in incommunicado detention or at undisclosed places of detention. The Commission on Human Rights has repeatedly made pronouncements on this matter. In its resolution 2003/38 (para. 14), the Commission "reminds all States that prolonged incommunicado detention may facilitate the perpetration of torture and can in itself constitute a form of cruel, inhuman or degrading treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person". The Human Rights Committee, in general comment No. 20, has also stressed that "provisions should ... be made against incommunicado detention" (para. 11). The Special Rapporteur refers to a previous report to the General Assembly (A/54/426), in which the former Special Rapporteur, Sir Nigel Rodley, stated that incommunicado detention is the most important determining factor as to whether an individual is at risk of torture. The present Special Rapporteur reiterates the recommendation of his two predecessors and urges all States to declare incommunicado detention illegal.

38. Incommunicado detention is aggravated when individuals are held in secret places of detention. The Special Rapporteur reiterates that "the maintenance of secret places of detention should be abolished under law. It should be a punishable offence for any official to hold a person in a secret and/or unofficial place of detention. Any evidence obtained from a detainee in an unofficial place of detention and not confirmed by the detainee during interrogation at official locations should not be admitted as evidence in court" (ibid., para. 26 (e)).

39. Another key safeguard to prevent incidents of torture or other forms of ill-treatment is the prompt and effective access of individuals deprived of their liberty to a judicial or other competent authority. As the previous Special Rapporteur recalled in a report, prompt judicial intervention serves as guarantee that there will be no breach of the non-derogable right not to be subjected to torture or other forms of ill-treatment (see A/54/426, paragraph 42). This safeguard is reflected in article 9 of ICCPR and principles 11, 32 and 37 of the Body of Principles on Detention. The judicial or other competent authority shall review the lawfulness of the detention as well as monitor that the detained individual is entitled to all his/her rights, including the right not to be subjected to torture or other forms of ill-treatment. The Special Rapporteur refers to his general recommendation in which he states that "provisions should give all detained persons the ability to challenge the lawfulness of the detention, e.g. through habeas corpus or *amparo*. Such procedures should function expeditiously" (E/CN.4/2003/68, para. 26 (i)).

40. In the exercise of his functions, the Special Rapporteur continues to receive allegations that no adequate measures have been taken after complaints of torture have been brought to the attention of the competent authorities. The Special Rapporteur is concerned that this may

facilitate cases of impunity and jeopardizes the right to seek and receive remedy. The Special Rapporteur again draws the attention of the Commission to the recommendation he made in this connection: “When a detainee or relative or lawyer lodges a torture complaint, an inquiry should always take place and, unless the allegation is manifestly ill-founded, the public officials involved should be suspended from their duties pending the outcome of the investigation and any subsequent legal or disciplinary proceedings. Where allegations of torture or other forms of ill-treatment are raised by a defendant during trial, the burden of proof should shift to the prosecution to prove beyond reasonable doubt that the confession was not obtained by unlawful means, including torture and similar ill-treatment. Serious consideration should also be given to the creation of witness protection programmes for witnesses to incidents of torture and similar ill-treatment which ought to extend fully to cover persons with a previous criminal record. In cases where current inmates are at risk, they ought to be transferred to another detention facility where special measures for their security should be taken. A complaint that is determined to be well founded should result in compensation being paid to the victim or relatives. In all cases of death occurring in custody or shortly after release, an inquiry should be held by judicial or other impartial authorities. A person in respect of whom there is credible evidence of responsibility for torture or severe maltreatment should be tried and, if found guilty, punished. Legal provisions granting exemptions from criminal responsibility for torturers, such as amnesty laws (including laws in the name of national reconciliation or the consolidation of democracy and peace), indemnity laws, etc. should be abrogated. If torture has occurred in an official place of detention, the official in charge of that place should be disciplined or punished. Military tribunals should not be used to try persons accused of torture. Independent national authorities, such as a national commission or ombudsman with investigatory and/or prosecutorial powers, should be established to receive and to investigate complaints. Complaints about torture should be dealt with immediately and should be investigated by an independent authority with no connection to that which is investigating or prosecuting the case against the alleged victim. Furthermore, the forensic medical services should be under judicial or another independent authority, not under the same governmental authority as the police and the penitentiary system. Public forensic medical services should not have a monopoly on expert forensic evidence for judicial purposes. In that context, countries should be guided by the principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment (the Istanbul Principles) as a useful tool in the effort to combat torture” (ibid., para. 26 (k)). The Special Rapporteur strongly recommends that States consistently implement the Istanbul Principles.

41. The Special Rapporteur points out again that inappropriate conditions of detention may amount to a form of torture or other forms of ill-treatment. He underlines the principle codified in article 10 of ICCPR which states that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”. This principle has been interpreted as “a norm of general international law not subject to derogation” by the Human Rights Committee in its general comment No. 29 on article 4 (para. 13 (a)). The Human Rights Committee has developed its views on the meaning of this principle in its general comment No. 21.

42. Persons deprived of their liberty shall have access to prompt and adequate medical care. In his report to the Commission on Human Rights at its forty-third session (E/CN.4/1987/13), the then Special Rapporteur on torture, Peter Kooijmans, presented a brief study on the role of medical personnel and torture. The Standard Minimum Rules,

in particular rules 22, 24, 25, 26, 52 and 82, as well as principle 24 of the Body of Principles on Detention, provide for a set of medical guarantees. They should be read in conjunction with the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly in 1982, the Declaration of Tokyo adopted by the World Medical Association in 1975 and the Declaration of Malta on Hunger Strikers, also adopted by the World Medical Association in 1992.

43. With regard to access to the outside world, the Special Rapporteur reiterates that persons deprived of their liberty shall be permitted to have contact with, and receive regular visits from, their relatives, lawyers and doctors and, when security requirements so permit, third parties such as human rights organizations or other persons of their choice. In accordance with principle 19 of the Body of Principles on Detention, access to the outside world can only be denied on reasonable conditions and restrictions as specified by law or lawful regulations. The Special Rapporteur notes that such access is not only a basic guarantee to prevent incidents of torture and other forms of ill-treatment, but also forms part of the right to family and private life enshrined in article 12 of the Universal Declaration of Human Rights and article 17 of ICCPR. In the light of the interpretation given by the Human Rights Committee in general comment No. 16, “interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant” (para. 3).

44. While the Special Rapporteur acknowledges the necessity of guaranteeing discipline and order in places of detention, he emphasizes that security measures and restrictions shall remain under any circumstances proportionate to their aim. The use of force by law enforcement officials should be applied only when strictly necessary and in accordance with the principles codified in the United Nations Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Standard Minimum Rules. It is the view of the Special Rapporteur, the use of physical force which is not genuinely justified by the conduct of the detainee may amount to torture or another form of ill-treatment.

45. Equally, the Special Rapporteur considers that the use of restraint techniques and/or instruments in order to control a detainee may amount to torture or another form of ill-treatment when they are applied in a degrading and painful manner. The Special Rapporteur notes that rule 33 of the Standard Minimum Rules prohibits the use of certain instruments of restraint such as chains or irons and limits the use of other methods to the following circumstances: precaution against escape during a transfer; upon request of a medical officer or by order of the director upon consultation with the medical officer; when other methods of control have failed; or in order to prevent self-injuries, injuries to others or property damage. In any case, the Special Rapporteur notes that the use of restraint techniques or devices shall never be made as a punishment. Rule 34 of the Standard Minimum Rules further establishes that restraint “must not be applied for any longer time than is strictly necessary”.

46. The Special Rapporteur refers to his preliminary study on the situation of trade in and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment, its origin, destination and forms, where he noted: “The legitimate use of ... some restraints (such as handcuffs) and kinetic and chemical devices is recognized in a number of appropriate circumstances It is nevertheless alleged that they have also been

misused - sometimes due to a lack of proper training - or intentionally used to inflict torture and other forms of ill-treatment. On the other hand, it is believed that other types of equipment are inherently cruel, inhuman or degrading and that their use would necessarily breach the prohibition of torture and other forms of ill-treatment” (E/CN.4/2003/69, para. 7).

47. The Special Rapporteur continues to receive information on individuals detained in solitary confinement for prolonged periods of time. He refers to general comment No. 20 of the Human Rights Committee concerning the prohibition of torture and cruel treatment or punishment, paragraph 6 of which states that “prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7” of ICCPR. The Special Rapporteur also refers to principle 7 of the Basic Principles for the Treatment of Prisoners (adopted by the General Assembly by resolution 45/111 of 14 December 1990), which states that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged”.

48. Punishment of detainees should be bound by clear disciplinary procedures and safeguards, including medical safeguards, in particular when the punishment involves “close confinement or reduction of diet” or “any other punishment that may be prejudicial to the physical or mental health of a prisoner”, as provided for in rule 32 of the Standard Minimum Rules. Further, rule 31 forbids “corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments”.

49. The Special Rapporteur notes that one of the most frequent obstacles to the respect of the human dignity and to the prohibition of torture and other forms of ill-treatment in places of detention is overcrowding. In order to improve the conditions of detention and in accordance with international standards, including rule 1 (5) of the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), the Special Rapporteur encourages States to avoid holding people in custody where possible. This is particularly applicable in cases of pre-trial detention and detention of children, asylum-seekers and refugees.

IV. HIV/AIDS AND TORTURE

50. In response to Commission on Human Rights resolution 2003/47 in which the Special Rapporteur, as well as other special procedures of the Commission, are requested to integrate the protection of HIV/AIDS-related human rights within their respective mandates, and recalling the discussion organized by OHCHR and UNAIDS on HIV/AIDS on 30 June 2003, the Special Rapporteur deems it important to address this issue in relation to the prohibition of torture.

51. In view of the scale and the impact of this pandemic, it is important to reaffirm that the protection of human rights, and in particular the right not to be subjected to torture, and cruel, inhuman and degrading treatment, is essential to safeguard human dignity in the context of HIV/AIDS and to ensure an effective rights-based response to it. The Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I), adopted by the Second International Consultation on HIV/AIDS and Human Rights and subsequently published by OHCHR and UNAIDS,⁸ underline and elaborate on the link between the realization of all human rights and the impact of HIV/AIDS. The right to freedom from cruel, inhuman or degrading treatment or punishment can arise in a variety of ways in the context of HIV/AIDS.

52. The right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment and its non-derogable character, as repeatedly highlighted by the Special Rapporteur, is clearly enshrined in the International Bill of Human Rights. While the Special Rapporteur has received very little information suggesting that the intentional transmission of HIV-infected blood is common practice, he would like to recall that, in light of similar practices with other infectious diseases, the prohibition of torture undoubtedly includes the prohibition of such practice.

53. The existence of a similar prohibition could also be found in international humanitarian law. In this respect, the Special Rapporteur draws the attention of the Commission to article 13 of the Geneva Convention relative to the Treatment of Prisoners of War which provides that “prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited and will be regarded as a serious breach to the ... Convention”.

54. Furthermore, the Special Rapporteur recalls, as stated in the International Guidelines on HIV/AIDS and Human Rights (para. 130), that to deny detained persons access to HIV-related information, education and means of prevention, voluntary testing, counselling, confidentiality and HIV-related health care and access to and voluntary participation in treatment trials could constitute cruel, inhuman or degrading treatment.⁹

55. In addition, the issue of rape as a form of torture is particularly relevant in the context of HIV/AIDS. As repeatedly stated by the Special Rapporteur, rape, in particular when women are the victims, is an especially traumatic form of torture. In this respect, the first Special Rapporteur on torture, Mr. Kooijmans, noted that “since it was clear that rape or other forms of sexual assault ... were a particularly ignominious violation of the inherent dignity and the right to physical integrity of the human being, they accordingly constituted an act of torture”.¹⁰ In the context of HIV/AIDS, rape may have dramatic consequences. Therefore, the Special Rapporteur would like to recall that States, through prison authorities, owe a duty of care to people in custody; this duty also includes a duty to combat rape and other forms of sexual victimization that may result in HIV transmission.¹¹

56. The right to health is closely related to and dependent upon the realization of other human rights, including the prohibition against torture. According to the analysis of the Committee on Economic, Social and Cultural Rights in its general comment No. 14, the right to health contains both freedom and entitlements. Regarding the prohibition of torture in the context of HIV/AIDS, the Special Rapporteur draws attention to the freedom to control one’s health and body, including sexual and reproductive freedom, and the right to be free from interference such as the right to be free from non-consensual medical treatment and experimentation, especially for people in custody. Non-consensual medical or scientific experiments are clearly prohibited, inter alia by ICCPR (art. 7), and may amount to a war crime (Rome Statute of the International Criminal Court, art. 8). Such experiments should also be prohibited in the context of research related to HIV/AIDS. The right to health also gives rise to entitlements including to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable standard of health. In particular, States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including persons deprived of their liberty, to preventive, curative and palliative health services. In addition, States should refrain from limiting access to

contraceptives and means of maintaining sexual and reproductive health from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information.

57. The Special Rapporteur would like to recall the Standard Minimum Rules for the Treatment of Prisoners which, *inter alia*, state that “sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers” (para. 22 (2)).

58. It must also be noted that prisoners should also be entitled to benefit from their right to enjoy the benefits of scientific progress in the context of HIV/AIDS.¹²

59. Furthermore, as stated in the recommendations for the implementation of (revised) guideline 6 of the International Guidelines on HIV/AIDS and Human Rights, “States should ensure that domestic legislation provides for prompt and effective remedies in cases in which a person living with HIV/AIDS is denied or not provided access to treatment, care and support.”¹³

60. The general principle of non-discrimination as set out in numerous human rights instruments is closely related to the prohibition of torture or cruel, inhuman and degrading treatment in the context of HIV/AIDS. First of all, it must be recalled that in resolution 1999/49 the Commission on Human Rights reiterated that the term “or other status” in non-discrimination provisions in international human rights texts should be interpreted to cover health status, including HIV/AIDS.

61. It must also be noted, as the former Special Rapporteur, Sir Nigel Rodley, observed in his report to the General Assembly (A/55/290, paras. 34-37), that marginalized populations, including people living in poverty, are particularly vulnerable to torture. In the context of HIV/AIDS, it is often the most marginalized who are vulnerable to HIV and its consequences, as they are less likely to have access to information, prevention, testing, treatment and support.

62. Furthermore, discrimination against certain groups heightens their vulnerability to torture. In this context, the Special Rapporteur would like to stress that, in view of the discrimination and stigma suffered by people living with HIV/AIDS in some societies, these individuals become possible targets for torture. Discrimination against people living with HIV/AIDS can also affect their capacity to access the justice system. Because of the discriminatory attitudes towards them, when they are victims of torture, people living with HIV/AIDS are sometimes deprived of the means of claiming and ensuring the enforcement of their rights, including the right to legal representation, and of asking for redress and reparation. In this case, the discrimination they suffer from could reinforce impunity enjoyed by perpetrators of acts of torture and ill-treatment. In this context, the Special Rapporteur would like to highlight guideline 5 of the International Guidelines which calls upon States to “enact or strengthen anti-discrimination and other protective laws that protect ... people living with HIV/AIDS ... from discrimination ... and provide for speedy and effective administrative and civil remedies”. The Special Rapporteur would also like to recall paragraph 3 of the Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance which urges States to “strengthen national mechanisms to promote and

protect the human rights of victims of racism, racial discrimination, xenophobia and related intolerance who are infected, or presumably infected, with pandemic diseases such as HIV/AIDS and to take concrete measures, including preventive action, appropriate access to medication and treatment, programmes of education, training and mass media dissemination, to eliminate violence, stigmatization, discrimination ... and other negative consequences arising from these pandemics”.

63. The Special Rapporteur highlights the fact that there is multiple discrimination where individuals face other types of discrimination that could be linked to gender, religion or race in addition to discrimination based on their HIV status. Violence against women, in particular in conflict situations, increases their vulnerability to HIV infection and States have an obligation to protect women from sexual violence. Furthermore, the Special Rapporteur reiterates the recommendation made by his predecessor that female security personnel be present during the interrogation of women detainees, as the interrogation and detention of female detainees by exclusively male personnel constitute conditions that may be conducive to rape and sexual abuse of women prisoners (E/CN.4/1995/34, para. 24).

64. The Special Rapporteur further highlights the issue of discrimination on the basis of sexual orientation in the context of torture related to HIV/AIDS. Attitudes and beliefs stemming from myths and fears associated with HIV/AIDS and sexuality contribute to stigma and discrimination against sexual minorities. In addition, the fact that members of these minorities are perceived as transgressing gender barriers or challenging predominant conceptions of gender roles seems to contribute to their vulnerability to torture as a way to “punish” their unaccepted behaviour. In this respect, the Special Rapporteur would like to recall the report of the former Special Rapporteur to the General Assembly (A/56/156, paras. 17-25), in which he referred to information he had received according to which members of sexual minorities, when arrested or when lodging a complaint, are subjected to further victimization by the police, including verbal and physical assault. It was also reported that members of sexual minorities receive inadequate medical treatment in public hospitals on grounds of their gender identity, which, in case of people living with HIV/AIDS, could lead to very serious consequences. In this regard, the International Guidelines state that “responses by States to the epidemic should include the implementation of laws and policies to eliminate systemic discrimination, including where it occurs against these [vulnerable] groups”.¹⁴

65. The Special Rapporteur undertakes to continue to integrate HIV/AIDS-related human rights protections in future activities, including country visits, communications with Governments and NGOs, where relevant, as requested by the Commission in its resolution 2003/47.

V. THE SITUATION OF TRADE IN AND PRODUCTION OF EQUIPMENT SPECIFICALLY DESIGNED TO INFLICT TORTURE OR OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT, ITS ORIGIN, DESTINATION AND FORMS

66. In accordance with Commission on Human Rights resolution 2002/38, the Special Rapporteur presented at the fifty-ninth session of the Commission a preliminary study on the situation of trade in and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment, its origin, destination and forms

(E/CN.4/2003/69), with a view to finding the best ways to prohibit such trade and production and to combat its proliferation. A summary of this study was also brought to the attention of the General Assembly (A/58/120). During the period under review, further information on this matter has been brought to his attention by the Government of Finland as well as specialized agencies of the United Nations, academic institutions and NGOs. The Special Rapporteur regrets that since the submission of his preliminary study no other Government has provided him with further information and comments.

67. In a letter dated 19 December 2002, the Government of Finland informed the Special Rapporteur that

“[t]rade in equipment designed to inflict torture does not exist in Finland Trade, import and manufacture for trade of dangerous cutting weapons is prohibited according to Finnish legislation. It is the duty of the Ministry of Defence to monitor the import and export of defence equipment. There have been no applications at least in the last 10 years to export out of Finland equipment designed to inflict torture The Parliamentary Ombudsman has not found in his inspections nor in the complaints lodged by people any indications of the use or trade of equipment designed to inflict torture”.

68. The Special Rapporteur expresses the wish that he will be able to carry out further work on this issue with a view to finding the best ways to prohibit trade in and production of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. In this respect, it would be commendable to take into account activities undertaken by the Commission of the European Communities which are aimed at the adoption of a Council regulation on the subject, as well as the recommendations of Amnesty International contained respectively in annexes I and II to the preliminary study of the Special Rapporteur (E/CN.4/2003/69).

Notes

¹ For further details on the activities of the Special Rapporteur during the session of IACHR, please see his last report to the General Assembly (A/58/120, para. 6).

² APT is an independent non-governmental organization with consultative status with the Economic and Social Council working worldwide against torture and ill-treatment by focusing on the prevention of such abuses.

³ OMCT is an international coalition of NGOs fighting against torture, summary executions, forced disappearances and all other forms of cruel, inhuman and degrading treatment.

⁴ ACAT is a non-governmental organization which campaigns on behalf of people who are tortured, detained in inhuman conditions, sentenced to death or “disappeared”.

⁵ Amnesty International is a worldwide movement of people who campaign for internationally recognized human rights. Its handbook “Combating torture: a manual for action” is available at: <http://web.amnesty.org/pages/stoptorture-manual-index-eng>.

⁶ The International Commission of Jurists is a non-governmental organization dedicated to the primacy, coherence and implementation of international law and principles that advance human rights.

⁷ Amnesty International, “Combating torture: a manual for action”, pp. 105-106.

⁸ *HIV/AIDS and Human Rights: International Guidelines*, United Nations publication, Sales No. E.98.XIV.1, United Nations, New York and Geneva, 1998.

⁹ *Ibid.*, para. 130.

¹⁰ Oral introduction to the 1992 report of the Special Rapporteur on the question of torture, cited in the report of the Special Rapporteur to the Commission on Human Rights at its fifty-first session (E/CN.4/1995/34, para. 16).

¹¹ *HIV/AIDS and Human Rights*, *op. cit.*

¹² *Ibid.*, para. 103.

¹³ *Ibid.*, *Revised Guideline 6: Access to prevention, treatment, care and support*, UNAIDS/02.49 E, August 2002, para. i, p. 17.

¹⁴ *Ibid.*, para. 85.

Annex

Index of reports submitted by the three successive Special Rapporteurs on the question of torture to the Commission on Human Rights (E/CN.4/...) and the General Assembly (A/...), 1986-2004

| Year | Special Rapporteur | Reference | Contents |
|------|--------------------|----------------------|--|
| 1986 | Peter Kooijmans | E/CN.4/1986/15 | <p>Scope of the mandate</p> <p>International legal concept of torture</p> <p>Measures to prevent acts of torture</p> <p>Measures to abolish torture or mitigate its effects</p> <p>National legislation and regulations</p> <p>Analysis of the information received:</p> <ul style="list-style-type: none"> - Analysis of allegations of torture - Conditions under which torture is practised - Types and methods of torture - Trade in implements of torture - Torture and violation of other human rights <p>Conclusions and recommendations</p> |
| 1987 | Peter Kooijmans | E/CN.4/1987/13 | <p>Role of medical personnel in torture</p> <p>Responsibility for the violation of the prohibition of torture</p> <p>National standards for correcting and/or preventing torture</p> <p>Analysis of the information received by the Special Rapporteur</p> |
| 1988 | Peter Kooijmans | E/CN.4/1988/17 | <p>Issues relating to the mandate</p> <p>Activities of the Special Rapporteur</p> <p>National standards for correcting and/or preventing torture</p> <p>Corporal punishment</p> <p>Inhuman prison conditions</p> <p>Generally applied harsh treatment</p> <p>Prolonged stay on death row</p> <p>Detention of minors together with adults</p> <p>Analysis of information received</p> <p>Preventive measures</p> <p>Conclusions and recommendations</p> |
| | | E/CN.4/1988/17/Add.1 | <p>Visits by the Special Rapporteur to:</p> <ul style="list-style-type: none"> - Argentina - Colombia - Uruguay |

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|------|--------------------|----------------------|--|
| 1989 | Peter Kooijmans | E/CN.4/1989/15 | Activities of the Special Rapporteur Visits by the Special Rapporteur to: - Peru - Republic of Korea - Turkey Advisory services |
| 1990 | Peter Kooijmans | E/CN.4/1990/17 | Mandate and methods of work Activities of the Special Rapporteur Visits by the Special Rapporteur to: - Guatemala - Honduras Follow-up to visits Conclusions and recommendations |
| | | E/CN.4/1990/17/Add.1 | Visit by the Special Rapporteur to Zaire |
| 1991 | Peter Kooijmans | E/CN.4/1991/17 | Mandate and methods of work Visit by the Special Rapporteur to the Philippines Follow-up to visits Conclusions and recommendations |
| 1992 | Peter Kooijmans | E/CN.4/1992/17 | Mandate and methods of work Activities of the Special Rapporteur - Implementation of Commission on Human Rights resolution 1991/70 on "Cooperation with representatives of United Nations human rights bodies" Follow-up to visits Conclusions and recommendations |
| | | E/CN.4/1992/17/Add.1 | Visit by the Special Rapporteur to Indonesia and East Timor |
| 1993 | Peter Kooijmans | E/CN.4/1993/26 | Mandate and methods of work Information reviewed with respect to various countries Visit by the Special Rapporteur to the former Yugoslavia Follow-up to visits Conclusions and recommendations |
| 1994 | Nigel S. Rodley | E/CN.4/1994/31 | Mandate and methods of work Information reviewed with respect to various countries Conclusions and recommendations |

| Year | Special Rapporteur | Reference | Contents |
|------|--|----------------------|---|
| 1995 | Nigel S. Rodley | E/CN.4/1995/34 | Mandate and methods of work - Gender-specific forms of torture Information reviewed with respect to various countries Conclusions and recommendations |
| | | E/CN.4/1995/34/Add.1 | Visit by the Special Rapporteur to the Russian Federation |
| | Nigel S. Rodley and Bacre Waly Ndiaye | E/CN.4/1995/111 | Joint visit by the Special Rapporteurs on torture and on extrajudicial, summary and arbitrary executions to Colombia |
| 1996 | Nigel S. Rodley | E/CN.4/1996/35 | Mandate and methods of work - Torture against children Information reviewed with respect to various countries Conclusions and recommendations |
| | | E/CN.4/1996/35/Add.1 | Summary of communications transmitted to the Governments and replies received |
| | | E/CN.4/1996/35/Add.2 | Visit by the Special Rapporteur to Chile |
| 1997 | Nigel S. Rodley | E/CN.4/1997/7 | Mandate and methods of work - Corporal punishment Activities of the Special Rapporteur Information reviewed with respect to various countries Concluding remarks Methods of work of the Special Rapporteur |
| | | E/CN.4/1997/7/Add.1 | Summary of communications transmitted to the Governments and replies received |
| | | E/CN.4/1997/7/Add.2 | Visit by the Special Rapporteur to Pakistan |
| | | E/CN.4/1997/7/Add.3 | Visit by the Special Rapporteur to Venezuela |
| 1998 | Nigel S. Rodley | E/CN.4/1998/38 | Mandate and methods of work Activities of the Special Rapporteur Information reviewed with respect to various countries Conclusions and recommendations |

| Year | Special Rapporteur | Reference | Contents |
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| | | E/CN.4/1998/38/Add.1 | Summary of communications transmitted to the Governments and replies received |
| | | E/CN.4/1998/38/Add.2 | Visit by the Special Rapporteur to Mexico |
| 1999 | Nigel S. Rodley | E/CN.4/1999/61 | Mandate and methods of work Activities of the Special Rapporteur Information reviewed with respect to various countries Conclusions and recommendations Statement to the General Assembly |
| | | E/CN.4/1999/61/Add.1 | Visit by the Special Rapporteur to Turkey |
| | | A/54/426 | Mandate: history, terms of reference and legal framework Methods of work and activities since 1993 Gender-specific forms of torture Violation of the prohibition of torture of children Corporal punishment Incommunicado detention Torture of human rights defenders Questions of non-refoulement Question of impunity Compensation and rehabilitation of torture victims Ratification of or accession to the Convention against Torture Manual of the effective investigation of torture International Criminal Court Concluding remarks and observations |
| | Nigel S. Rodley, Asma Jahangir and Radhika Coomaraswamy | A/54/660 | Joint visit by the Special Rapporteurs on torture, on violence against women and on extrajudicial, summary or arbitrary executions to East Timor |
| 2000 | Nigel S. Rodley | E/CN.4/2000/9 | Mandate and methods of work Activities of the Special Rapporteur Information reviewed with respect to various countries Conclusions and recommendations |

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|------|--------------------|----------------------|--|
| | | E/CN.4/2000/9/Add.1 | Follow-up to the recommendations made by the Special Rapporteur following his visits to Chile, Colombia, Mexico and Venezuela |
| | | E/CN.4/2000/9/Add.2 | Visit by the Special Rapporteur to Cameroon |
| | | E/CN.4/2000/9/Add.3 | Visit by the Special Rapporteur to Romania |
| | | E/CN.4/2000/9/Add.4 | Visit by the Special Rapporteur to Kenya |
| | | E/CN.4/2000/9/Add.5 | Communications received from Governments between 15 December 1999 and 15 February 2000 |
| | | A/55/290 | Gender-specific forms of torture Torture and children Torture and human rights defenders Reparation for victims of torture Torture and poverty |
| 2001 | Nigel S. Rodley | E/CN.4/2001/66 | Mandate and methods of work - Racism and torture Activities of the Special Rapporteur Information reviewed with respect to various countries |
| | | E/CN.4/2001/66/Add.1 | Visit by the Special Rapporteur to Azerbaijan |
| | | E/CN.4/2001/66/Add.2 | Visit by the Special Rapporteur to Brazil |
| | | A/56/156 | Issues of special concern to the Special Rapporteur: - Intimidation as a form of torture - Enforced or involuntary disappearance as a form of torture - Torture and discrimination against sexual minorities - Torture and impunity - Prevention and transparency Revised version of the recommendations of the Special Rapporteur |

| Year | Special Rapporteur | Reference | Contents |
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| 2002 | Nigel S. Rodley | E/CN.4/2002/76 | Mandate and methods of work Activities of the Special Rapporteur Revised version of the recommendations of the Special Rapporteur Letter of resignation from the Special Rapporteur addressed to the Chair of the Commission on Human Rights Statement to the General Assembly |
| | | E/CN.4/2002/76/Add.1 | Summary of communications transmitted to Governments and replies received |
| | Theo van Boven | E/CN.4/2002/137 | Mandate and methods of work - The non-derogability of the prohibition of torture and cruel, inhuman or degrading treatment or punishment Activities of the Special Rapporteur Message by 17 independent experts of the Commission on Human Rights on the occasion of the Human Rights Day |
| | Theo van Boven | A/57/173 | The prohibition of torture and other forms of ill-treatment in the context of anti-terrorism measures: - Arrest, pre-trial detention, access to a lawyer and the right to habeas corpus - Places of pre-trial detention - Length of pre-trial detention - Confessions and evidence - Immunity from prosecution of law enforcement officials - The right to seek asylum, the principle of non-refoulement and extradition International and national mechanisms for visits to places of deprivation of liberty Corporal punishment of children Joint declaration on the occasion of the International Day in Support of Victims of Torture |

| Year | Special Rapporteur | Reference | Contents |
|------|--------------------|----------------------|---|
| 2003 | Theo van Boven | E/CN.4/2003/68 | Mandate and methods of work: <ul style="list-style-type: none"> - Sources of information - Urgent appeals - Allegation letters - Fact-finding missions - Reports Activities of the Special Rapporteur Conclusions and recommendations |
| | | E/CN.4/2003/68/Add.1 | Summary of communications transmitted to the Governments and replies received |
| | | E/CN.4/2003/68/Add.2 | Visit by the Special Rapporteur to Uzbekistan |
| | | E/CN.4/2003/69 | Preliminary study on trade in and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment |
| | | A/58/120 | The prohibition of torture and other forms of ill-treatment in the context of anti-terrorism measures Study on trade in and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment Reparation for victims of torture The prevention of torture and other forms of ill-treatment in psychiatric institutions Joint declaration on the occasion of the United Nations International Day in Support of Victims of Torture Joint statement by the special rapporteurs/representatives, experts and chairpersons of the working groups of the special procedures of the Commission on Human Rights (30 June 2003) |

| Year | Special Rapporteur | Reference | Contents |
|------|--------------------|----------------------|--|
| 2004 | | E/CN.4/2004/56 | Activities of the Special Rapporteur Analysis of the communications with Governments - The urgent appeals procedure Guarantees for individuals deprived of their liberties HIV/AIDS and torture Trade in and production of torture instruments Index of reports submitted by the Special Rapporteurs to the Commission on Human Rights and the General Assembly Statement to the General Assembly |
| | | E/CN.4/2004/56/Add.1 | Summary of communications transmitted to the Governments and replies received |
| | | E/CN.4/2004/56/Add.2 | Visit by the Special Rapporteur to Spain |
| | | E/CN.4/2004/56/Add.3 | Follow-up to the recommendations made by the Special Rapporteur following past fact-finding visits |
