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THE PROHIBITION OF TORTURE: FUTURE PRIORITIES FOR RESEARCH, POLICY AND PRACTICE

WORKSHOP REPORT: UK NETWORK ON THE PROHIBITION OF TORTURE*

The prohibition of torture and other forms of cruel, inhuman, or degrading treatment or punishment is one of the most fundamental principles of international human rights law. As an absolute and universal norm, the ban on torture cannot be derogated under any circumstances, not even in a state of war or public emergency. States are not just obligated to refrain from using or condoning torture, they are also required to take positive measures to prevent its occurrence, protect and support victims, investigate any allegations of torture and prosecute those responsible.

And yet, torture and ill-treatment continue to be practiced in all parts of the world, including in some of the most democratic countries. Impunity is widespread and many torture survivors remain unacknowledged, unsupported and without redress. In his address in London on the International Day in Support of Victims of Torture in June 2017, Zeid Ra'ad al-Hussein, UN High Commissioner for Human Rights, warned that the absolute prohibition of torture is at risk of being undermined by the rhetoric of political leaders "who only see human rights as a tiresome constraint."[1]

How can the prohibition of torture be enforced in practice? What are effective mechanisms, procedures and processes to prevent torture and ill-treatment? How can we ensure access to justice and remedy for victims? And how can continued public and political support for the prohibition of torture be secured in an age of rising populism, public insecurity and ebbing enthusiasm for human rights?

These were some of the questions discussed at the inaugural workshop of the 'UK Network on the Prohibition of Torture', hosted jointly by the UCL Institute of the Americas, the UCL Global Governance Institute, UCL Laws and the Centre for Human Rights Law at SOAS on 2 November 2017.[2] The workshop brought together leading practitioners, policy-makers and academics to consider key priorities for future policy and research agendas and assess possibilities for scaling up collaboration. This Policy Brief summarises the discussion. It does not necessarily reflect the views of all workshop participants.

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[1] Office of the United Nations High Commissioner for Human Rights (2017)

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THE INTERNATIONAL FRAMEWORK FOR TORTURE PROHIBITION AND PREVENTION

Article 5 of the 1948 Universal Declaration of Human Rights was the first international legal text to establish that "[no] one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."[3] Subsequently, the ban on torture has been codified in a number of international and regional human rights treaties, including the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1969 American Convention on Human Rights, the 1981 African Charter on Human and Peoples' Rights, the 1984 Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the 1990 Convention on the Rights of the Child (CRC).

The prohibition of torture is also a fundamental element of international humanitarian and criminal law. The 1949 Geneva Conventions and their Additional Protocols of 1977 contain a number of provisions that absolutely prohibit torture and other forms of ill-treatment in armed conflict. Torture is considered both a war crime and a crime against humanity by the Rome Statute of the International Criminal Court (ICC) as well as the Statutes of the International Criminal Tribunals for the Former Yugoslavia (ICTY) and for Rwanda (ICTR).

The Convention against Torture (CAT)

The CAT, which has been ratified by 162 countries so far, remains the central piece of international law dealing with torture. It provides a globally agreed definition of torture and spells out both positive and negative obligations for states. It affirms that "[n]o exceptional circumstances whatsoever […] may be invoked as a justification of torture" (Article 2.2).[4] This absolute prohibition of torture is now considered a norm of customary international law, meaning that it applies to *all* states, including those that have not signed the CAT.

In addition, states are required to investigate any allegation of torture and extradite or prosecute alleged offenders, regardless of who they are and where the crime took place. They are also obligated to "take effective legislative, administrative, judicial or other measures to prevent acts of torture" (Article 2.1).[5] In addition, states must provide victims with an enforceable right to redress and protect people from real and immediate risks of torture. This includes adhering to the principle of non-refoulement, meaning that states are not allowed to return a person to a country where he or she would face the risk of torture.

The Optional Protocol to the Convention against Torture (OPCAT)

The 2002 Optional Protocol to the CAT (OPCAT), now ratified by 86 states,[6] is widely regarded as breaking new ground within the international human rights system. Its key aim is to prevent torture and ill-treatment and assist states in meeting their obligations under the CAT through the establishment of a unique system of regular visits to places of detention by both international and national bodies.

State Parties agree to preventive monitoring of places of detention by the OPCAT's treaty body, the UN Subcommittee on Prevention of Torture (SPT). The SPT is the only international body with the power to visit any place where people are or may be deprived of their liberty, without restriction.[7] It must be granted access to all relevant information and be able to interview detainees and any other person in confidence. Visits are followed up with confidential reports that contain recommendations on how to improve the treatment and conditions for persons deprived of their liberty.[8]

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[3] United Nations (n.d.)
[4] Office of the United Nations High Commissioner for Human Rights (n.d.-a)
[5] Ibid
[6] In December 2017, Australia became the latest state to ratify OPCAT. For an overview of OPCAT State Parties, signatories and designated NPMs, see: Association for the Prevention of Torture (n.d.-a)
[7] There is, however, a regional body – the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CTP) – that has a similar visiting mandate.
[8] Although the SPT works on the basis of confidentiality, the concerned State Party may decide to publish the SPT visit report. If the State Party makes part of the report public, the SPT may publish it in full. To date, more than half of the SPT visit reports have been made public. They can be accessed at: OHCHR UN Treaty Body Database (n.d.)

Under OPCAT, State Parties are also obligated to designate or establish their own independent National Preventive Mechanisms (NPMs) with similar monitoring powers. Part of the SPT's mandate is to support State Parties in the establishment of the NPM and to provide advice and assistance regarding its working. So far, 65 states have designated an NPM.

The central premise of the OPCAT approach is to set up an ongoing dialogue between State Parties, the SPT and NPMs that "emphasises prevention rather than reaction, and cooperation with national authorities rather than condemnation."[9]

[9] Association for the Prevention of Torture (n.d.-b)

KEY CHALLENGES FOR FUTURE POLICY AND RESEARCH AGENDAS

The field of torture prohibition, prevention and redress is becoming increasingly complex. It involves a multitude of actors – policy-makers, researchers, legal and medical professionals, and human rights activists, to name but a few – from a wide range of professional backgrounds and academic disciplines. However, too often, efforts to advance legal, empirical and policy-relevant insights on torture prohibition have proceeded in isolation. There is great potential for cross-disciplinary and cross-sectoral learning by fostering regular exchange between practitioners, policy-makers and researchers in the UK and beyond. Shared concerns and key challenges for future research and policy-making include the lack of high-quality empirical data and the need to grapple with the multiple and shifting notions of torture and ill-treatment and the contexts in which it takes place.

Shifting Conceptions of Torture and Ill-Treatment

> *"For the purposes of this Convention, the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."*
>
> **CAT, Article 1.1**[10]

Although the absolute prohibition of torture is set out in a number of international human rights treaties, there remains some ambiguity about the point at which ill-treatment amounts to torture. Article 1 of the CAT sets out an internationally agreed legal definition of torture that contains three main elements: torture is the (1) intentional infliction of severe pain or suffering, (2) by public officials or with the consent or acquiescence of state authorities, (3) for a specific purpose, such as obtaining information or a confession. The latter has been highlighted as "the most decisive criteria distinguishing torture from cruel or inhuman treatment."[11] However, unlike torture, these other forms of ill-treatment are not defined in any international treaty and, in practice, the question of where to draw the line between torture and ill-treatment can be controversial.

When it comes to prevention, the distinction between torture and ill-treatment is arguably not a primary concern – after all, both constitute extreme cases of power abuse that are categorically prohibited under international law. However, when conducting empirical research, drafting legislation or issuing judgements, definitional clarity is often essential. Particularly difficult questions arise when defining the positive obligations of states to protect people from ill-treatment. For example: should domestic violence or human trafficking be considered 'ill-treatment' under the CAT and could states be held accountable for failing to protect victims of these crimes?

Increasing attention has also been paid to the positive and negative obligations of non-state actors – such as corporations, armed groups, criminal organisations, or private individuals – in relation to torture. Private procurement may also blur responsibilities for violations of the CAT in places of detention. For example, private contractors were implicated in the torture of prisoners at the Abu Ghraib prison in Iraq but have hardly suffered any legal consequences and have not been barred from receiving future

[10] Office of the United Nations High Commissioner for Human Rights (n.d.-a)

[11] Nowak (2006), p. 830. See also: Rodley and Pollard (2009). Earlier notions of torture as an "aggravated […] form of cruel, inhuman or degrading treatment or punishment" (Office of the United Nations High Commissioner for Human Rights [n.d.-b]) that focus on the severity of pain or suffering inflicted have fallen into disuse. As Carver and Handley (2016, p. 37) point out, defining torture in terms of 'aggravated severity' may lead to attempts to set the threshold so high that most instances of ill-treatment could not be considered torture. As Evans (2002, p. 382) argues: "It should not be necessary for the 'suffering' to be of a greater severity as well. It is the very fact of its purposive use that is the 'aggravating factor'."

government contracts.[12] In the UK, the majority of immigration detention centres are currently run by private companies, some of which have come under fire for allegations of abuse and sexual exploitation.[13]

What is clear is that notions of torture and ill-treatment shift and evolve over time[14] as does our understanding of *where* torture occurs. While discussions on torture have traditionally focused on police stations and prisons, torture and ill-treatment increasingly occur in settings outside of the criminal justice system. These include immigration detention centres, psychiatric hospitals and places where people are *de facto* detained, such as social care homes or orphanages. Importantly, these settings are included in the visiting system established by OPCAT, which defines a place of detention very broadly as any place "where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence" (Article 4).[15] Recent discussions have also focused on whether the extra-custodial use of force by state agents, for example, during arrest, stop and search or riot control operations, could constitute torture.[16]

Lack of Empirical Data

Although torture has been the subject of much scholarly work, our empirical understanding of the problem remains limited. It is, of course, hardly surprising that there is not much official recording of practices that many governments would prefer to keep under the blanket. However, even where there is a sincere commitment by governments, NGOs and specialised monitoring bodies to keep numerical records, the quality of data leaves much to be desired. As Richard Carver and Lisa Handley note in *Does Torture Prevention Work?*, "[a]t the most elementary level, changes in definition and other parameters often prevent data from being comparable year on year, making it difficult to determine whether improvement has occurred."[17]

Even in countries such as the UK it is extremely difficult to assess the size of the problem. For most countries, we do not have data on the number of people that are detained on any given day, let alone the number of reported allegations of torture and ill-treatment, the number criminal investigations, the number of prosecutions, or the number of convictions.[18] In fact, for many countries (and not just in the developing world) we even lack basic data on the number of detention centres and the staff they employ.

This lack of data has practical consequences: Without reliable data, it is hard to establish whether or not preventive efforts are bearing fruit and what future priorities for prevention should be. While it may never be possible to get comparable, good quality data from national agencies, NGOs, researchers and monitoring bodies could collaborate to develop common standards for data collection.

[12] Engility, the parent company of one of the contractor firms, paid a USD 5.28 million settlement to former Abu Ghraib inmates. A case against another contractor, CACI International, is still ongoing. After having been dismissed and revived several times, it is now the "first civil case against U.S. contractors to get to a point where a judge is evaluating allegations of mistreatment." See: Weiner (2017)

[13] See, for example: BBC (2017) and Townsend (2013)

[14] The European Court of Human Rights, for instance, has explicitly acknowledged that notions of torture and ill-treatment are shifting in light of "the increasingly high standard being required in the area of the protection of human rights and fundamental liberties" and that "certain acts which were classified in the past as 'inhuman and degrading treatment' as opposed to 'torture' could be classified differently in future" (European Court of Human Rights [1999], para. 101).

[15] Office of the United Nations High Commissioner for Human Rights (n.d.-b)

[16] Melzer (2017)

[17] Carver and Handley (2016), p. 628

[18] In the UK, the number of people deprived of their liberty on any given day has recently been estimated for the first time in a report by the UK NPM. The data (for 2015-16) shows that more than 124,000 people were detained in the UK on any given day. However, there still some gaps in the data and the actual figure is likely to be much higher as data for a number of settings could not be included. See: HM Inspectorate of Prisons (2017)

TORTURE PREVENTION: WHAT WORKS?

The prevalence of torture in a given country is conditioned by a range of factors. This includes broad social, economic and political factors – such as economic development, democracy or conflict – that are largely beyond the control of those seeking to prevent torture. But there are also a variety of concrete safeguards, strategies and mechanisms that aim to create an environment in which torture and ill-treatment are less likely to occur, from monitoring detention to making sure that detainees have prompt access to a lawyer. There is evidence that these mechanisms do indeed work, with some being more effective than others. A key challenge, however, is to ensure that torture prevention is delivered in practice and not just on paper.

Does Torture Prevention Work?

Does Torture Prevention Work?, a research project commissioned by the Association for the Prevention of Torture (APT) and led by Richard Carver and Lisa Handley, is the first study to systematically test the effectiveness of torture prevention. Looking at 16 countries over a 30-year period (1985-2014), the study employed both quantitative and qualitative methods to investigate over 60 preventive measures and their effect on reducing the risk of torture. Broadly speaking, these measures can be divided into four types:

- **Prosecution:** Under CAT, states are required to end impunity for torturers. It has long been argued that the investigation and prosecution of torture has a preventive effect.
- **Complaint mechanisms:** Most National Human Rights Institutions (NHRIs) have the power to receive and investigate individual complaints over human rights violations. Complaints mechanisms are considered important safeguards by bodies such as the European Committee for the Prevention of Torture (CPT).[19]
- **Monitoring:** The OPCAT has introduced an innovative system for preventive monitoring, with regular visits to all places of detention conducted by national (the NPMs) and international (the SPT) bodies.
- **Detention safeguards:** Advanced, most notably, by Amnesty International and other human rights advocates, these safeguards include laws, rules and procedures that govern the arrest, detention and interrogation of individuals. These preventive measures place great emphasis on the first hours and days of detention.

The study found that detention safeguards had by far the strongest impact on lessening the risk of torture. These preventive mechanisms address torture as a "crime of opportunity,"[20] a crime that is likely to occur when and where law enforcement officers have the opportunity to abuse their power and the individuals in their charge are in a particularly vulnerable position. Detention safeguards aim to reduce these opportunities by ensuring, for instance, that all detentions are lawful and formally recorded, that families and friends of detainees are notified immediately, that detainees have the right of access to a lawyer and medical supervision, and are promptly presented before a judge.

The next most important set of preventive mechanisms focused on ending impunity: Where torture was more or less consistently investigated, prosecuted and punished, the risk of torture fell. Monitoring, which has been the subject of much contemporary discussion on torture prevention, was found to be important as well, although its preventive effect was less strong than that of prosecution and detention safeguards.[21] The last type of measures, independent complaint mechanisms, were found to have no significant impact on the future incidence of torture, except where they fed directly into the prosecution process.

[19] European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2015), p. 7
[20] Rodley (2009), p. 16
[21] It should be noted, however, that the study tested the impact of prevention measures on torture, not other forms of ill-treatment or detention conditions more generally. It is possible that a broader focus on improving conditions in detention would yield different results regarding the effect of monitoring mechanisms.

An important caveat must be added to these findings: For all of the preventive measures, legal provisions alone had no impact – what mattered was actual practice. The study found that there is a substantive gap between law and practice, most notably in relation to the prosecution of tortures. Closing this divide is thus a key priority for future research and policy-making.

Bridging the Gap between Law and Practice

Good laws are important but not sufficient to reduce the incidence of torture. Whether or not they have any practical effect is subject to a range of contextual factors. Political will, of course, is essential to ensure coherent implementation of torture prevention laws, policies and strategies. The presence of political will is partly shaped, in turn, by public attitudes on torture and the treatment of detainees and whether or not there is an active civil society campaigning to eliminate the use of torture.

In addition, a lack of resources and capacity can explain the persistence of torture in some settings. Making law work in a context where police are ill-disciplined, underpaid, poorly trained and, at the lowest ranks, often illiterate, will be extremely difficult. Similarly, perpetrators cannot be held accountable if the criminal justice system as a whole is dysfunctional. More attention also needs to be paid to the relationship between torture and wide-spread corruption.

In terms of practical measures to bridge the gap between law and practice, the Carver and Handley study provides statistical evidence of the importance of training for all relevant actors, including police, prison staff, the judiciary, as well as those involved in monitoring places of detention and handling complaints. Anecdotal evidence suggests that professional skills training, in particular, can have a substantial impact. Importantly, any training needs to be relevant to people's work and everyday experience: A 'lecture' on international human rights law is not likely to be very impactful – participants need to get a sense that the training does not just help them to adhere to relevant human rights norms but also enables them to do their job better (rather than making it more difficult).

Participants might be sceptical of trainings if they fear that the information they provide could later be used against them or if they feel that trainers do not appreciate the actual conditions under which they carry out their jobs. Effective training, therefore, needs to be tailored to context. Trainers need to be sensitive to their own role as 'outsiders' and take some time to understand local conditions and working environments before delivering training. Involving local actors and/or people with the same professional background as participants can be helpful to develop trust. Finally, effective trainings usually last longer than just one or two days, giving participants the chance to fully engage with the issues under discussion.

More research is needed on what makes training effective and if there are any preconditions that need to be in place to ensure that it does not have any negative side-effects. For example, can training be effective in contexts where resources and political will are scarce? Does it have any relevance in countries with dysfunctional criminal justice systems? Could it be 'whitewashing' human rights violations in repressive regimes?[22] Or, on the contrary, is training especially important in these difficult settings?

What is clear is that training and any other preventive mechanism needs to be tailored to context. Context is also important when identifying the groups or individuals most at risk of torture and ill-treatment. A lot of attention has been paid, for example, to individuals detained under terrorism legislation and, more recently, to those in immigration detention. While these are undoubtedly groups at particular risk, it is important not to forget about those outside the spotlight. In countries such as the UK, those detained under the Terrorism Act might, in fact, be among the most protected – due to the media attention their cases tend to receive and the risk that evidence obtained might not be admissible.[23]

The use of evidence that may have been obtained by torture is clearly prohibited by Article 15 of the CAT. However, this is often not reflected in practice, especially in contexts where torture and ill-treatment have become 'routine' and investigators lack the means and skills to secure convictions by other means.

[22] The UK government, for example, has been challenged for providing training to the Sudanese Armed Forces, which have been accused of being involved in serious human rights violations. See: Taylor (2015)

[23] A ruling in 2005 confirmed that British courts cannot make use of any evidence that may have been the product of torture against terror suspects (no matter where and by whom this evidence was gathered). See: BBC (2005)

In addition to more training and resources, therefore, reducing the reliance on confession evidence in court proceedings can have a significant preventive effect.[24]

Finally, more research is needed on how advances in technology might impact torture prevention. New investigative technology such as electronic surveillance can reduce the need for confession-based evidence. In addition, the use of body cameras and the recording of interrogations may help prevent ill-treatment. However, technology is no panacea. Surveillance technologies, for example, raise a number of human rights concerns of their own. Moreover, electronic recording systems in places of detention may pose problems of access to information for monitoring bodies such as the NPMs and the SPT.

[24] Carver and Handley (2016), pp. 631-633. See also: Conrad and Moore (2010)

SECURING ACCOUNTABILITY AND JUSTICE FOR TORTURE VICTIMS

Ending impunity for torture and providing a right to remedy for victims is one of the foundational concerns of the CAT. Torture is outlawed everywhere and it has been specifically criminalised in the domestic legislation of many countries. Yet, too often, impunity prevails and justice for victims remains elusive. Even if torture is investigated and prosecuted, systemic shortcomings are rarely acknowledged and incidences are often portrayed as isolated cases, perpetrated by just a few individuals.[25] The dramatic gap between law and practice and the fear of reprisals might deter victims from filing a complaint in the first place, furthering the culture of impunity.

The Link between Justice and Prevention

Because perpetrators are so rarely brought to justice, it is challenging to test empirically whether prosecutions have any preventive effect. That said, Carver and Handley found that the future risk of torture fell if incidences were "at least somewhat consistently" investigated, prosecuted and punished.[26] This finding is congenial with other studies suggesting that individual criminal accountability may help prevent future human rights violation by raising the costs of abuse for individual state officials.[27] For example, a recent analysis by Francesca Laguardia concludes that CIA officials responsible for instigating torture during the 'War on Terror' were carefully considering the possibility of their own criminal liability and "would have been successfully deterred if not for the lack of prior prosecutions."[28]

Apart from prosecutions, transitional justice mechanisms (such as truth commissions) and civil remedies can provide some form of justice and accountability. However, civil remedies were found to have no significant preventive effect in the Carver and Handley study, likely because the payment of financial compensation for torture victims by the state does not raise the 'costs' of torturing for individual perpetrators.[29] In the case of transitional justice mechanisms, the qualitative country studies suggest that these processes often fail to address and dismantle the institutional and bureaucratic structures that support the perpetration of torture.[30] Torture may easily be portrayed as the despicable crime of the former administration, with current abuses described as unfortunate but necessary measures to maintain civil order. In addition, many of the individuals responsible for instigating and perpetuating torture in the former regime may still be in charge, making comprehensive truth-telling exercises impossible.

Despite the deterrent effect of prosecutions, then, there is often an inevitable tension between prevention and holding perpetrators to account: After all, prevention is only effective if the people in charge have a sincere interest in improving the situation, yet, in many cases the same people will have been implicated in past abuses. This raises difficult practical and moral issues that can only be dealt with on a case-by-case basis after careful consideration of local and context-specific circumstances.

Securing Justice for Victims of Torture

Considering the link between prosecuting perpetrators and prevention is, of course, important but it should not distract from the fact that victims have a right to justice whether or not it contributes to preventive efforts. That said, justice has multiple meanings and there is no one-size-fits-all approach for justice delivery. Some of the most basic questions include:

- ***Where* should justice be pursued?** Should the crime be prosecuted in the country where it was committed, the country where the victim has claimed asylum, the country where the perpetrator resides, or on the international level?

[25] For example, the US government has repeatedly portrayed the abuse of detainees at Abu Ghraib prison in Iraq as the "disgraceful conduct" of just a few individuals, acting without orders. See: The Economist (2005)
[26] Carver and Handley (2016), p. 3
[27] See, for example: Sikkink (2011)
[28] Laguardia (2017), p. 189
[29] In South Africa and India, for example, the state regularly makes substantial payments to civil claimants who have been ill-treated by the police, however, these payments are not made by the police itself. See: Carver and Handley (2016), p. 86
[30] See: Carver and Handley (2016), pp. 86-88. See also: McGregor (2013)

- **Justice *against* whom?** Should prosecutions focus on individual perpetrators or is the government ultimately responsible? How can we ensure that the prosecution of low-level officials is not used to 'buy out' high-level decision makers? How could non-state actors be held accountable for violations?
- **Justice *for* whom?** Who is a victim of torture? Should justice be delivered on an individual level (in the form of prosecutions) or on a broader societal level (e.g. in the form of transitional justice mechanisms)?

If the use of torture is widespread and systematic, the 'right to truth' does arguably not just belong to individual victims but also to the wider public. Under CAT, states are obligated to investigate "wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction" (Article 12).[31] This entails an *ex officio* requirement to launch investigations whenever there is any indication that torture may have occurred, even if the victim has not lodged a complaint.[32] Public inquiry processes into allegations of torture and ill-treatment might have powerful effects, including by countering the narrative that torture is the work of just a few 'rogue' individuals and by encouraging more victims to come forward. In spurring a restorative dialogue, publicly delivered justice can also have a 'ritual value' for wider society in transitional contexts.

However, especially in transitional countries, attention needs to be paid to the political contexts that lead to some measures of accountability and justice being privileged over others. Truth and reconciliation commissions, for example, are often seen as trading justice for truth, thereby effectively establishing impunity. In addition, torture is an issue that is rarely adequately addressed by truth commissions in the first place.[33] General amnesties, especially if granted in the absence of proper investigations, not only leave victims without remedy but also discourage future prosecutions.

Finally, it is imperative that any discussion of justice and accountability does not lose sight of the victims. Torture constitutes an extreme form of power abuse, with severe and long lasting physical and psychological effects. Pursuing justice can be difficult for victims, not only because of formal barriers but also because of important informal barriers: the fear of retaliation, the pain of reliving traumatic experiences, the shame involved in publicly exposing one's vulnerabilities and weaknesses, and a deep mistrust in state institutions. Providing evidence in court can be traumatic and intimidating for victims and witnesses of torture, in particular children and young people. It is important, therefore, to pay attention not just to the substantive but also the procedural rights of victims and to engage them throughout the judicial process in a way that respects their views and wishes.

While the physical and emotional scars of torture may never fully heal, justice and reparation can play an important part in the recovery process of torture survivors. Efforts to study the link between justice and prevention should not obscure the fact that victims have a right to redress: just as the '(in)effectiveness' of torture should not be used as a plank of the argument for absolute prohibition, the 'effectiveness' of redress mechanisms should not form the basis of the argument for securing justice.

[31] Office of the United Nations High Commissioner for Human Rights (n.d.-a)
[32] Bantekas and Oette (2016), p. 364, footnote 145
[33] Roht-Arriaza (n.d.)

NETWORK OBJECTIVES: FUTURE POLICY AND RESEARCH AGENDAS

The UK Network on the Prohibition of Torture aims to become a key platform for fostering cross-disciplinary and cross-sectoral exchange and collaboration between different actors working on the subject of the torture prohibition. While primarily focused on bringing together UK-based researchers, practitioners and policy-makers, the Network also hopes to develop and strengthen ties with relevant organisations and individuals in Europe and globally. It is envisaged that the Network will convene on an annual basis, with the possibility of also developing joint policy and research initiatives.

The inaugural workshop served to identify gaps in knowledge and common points of departure for developing future policy and research agendas. Participants discussed a range of specific issues that deserve further exploration, including:

- **Addressing challenges of data collection:** More empirical work is needed to determine how frequently violations occur, where and when the risk for torture is highest, which groups or persons are most vulnerable, what preventive interventions are most effective and under which conditions. However, existing data is scarce and of poor quality. Much could be gained from improving and standardising data collection, evaluation and sharing. The need for collaboration between researchers and a wide range of stakeholders is particularly pressing in this area.
- **Exploring the necessary conditions for effective training:** Training is a promising avenue to close, or at least reduce, the yawning gap between law and practice in torture prevention. The Carver and Handley study confirmed that training can have a positive impact on the conduct of all relevant actors: members of the police, prison staff, the judiciary, as well as those involved in monitoring and handling complaints. But what makes training effective? Are there any necessary conditions that must be in place to ensure that training works? And how can we avoid unintended negative effects of training in difficult political contexts? Beyond the development of training manuals and collection of best practices, there is ample scope in this area to pool expertise through the Network.
- **Evaluating the impact of new technology:** The use of technology can help prevent torture and ill-treatment by enhancing oversight in places of detention (e.g. through video and audio recordings of interrogations) and opening up new investigative methods other than interrogation (e.g. through the use of CCTV and other surveillance technologies). However, a largely unexplored question is how technological change, such as the shift from paper to electronic record keeping in places of detention, affects the work of monitoring bodies such as the SPT and the NPMs.
- **Refocusing attention on the rights of torture victims:** Discussions on the 'usefulness' of justice provision for prevention and/or state-building should not obscure the individual rights of victims. To make sure that we do not lose sight of their needs and wishes, procedural rights need to be strengthened in addition to substantive rights to justice and redress.
- **Considering the role of non-state actors:** Efforts to combat torture have traditionally focused on states. However, armed groups, criminal organisations, private corporations and other non-state actors have also been responsible for serious human rights violations. Could these practices be considered torture under international law? And what are the state's responsibilities in preventing abuse by non-state actors, including its own private contractors?

Finally, the difficult political climate remains an overarching challenge for anyone involved in preventing torture and ending impunity. Important advances have been made over the past decades in the adoption of international legal provisions and instruments but political will is essential to put these into action. Many governments around the world remain hostile or, at best, indifferent to the prohibition of torture, and are likely to be encouraged by the attitude of the new US administration on the topic.[34] A key question, then, is how to secure continued public, political and financial support for the prohibition of torture in a climate in which curtailing human rights in the name of public security is increasingly popular.

[34] US President Donald Trump has claimed that practices such as waterboarding "absolutely" work and that the US should "fight fire with fire." See: Withnall (2017)

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