

IBSBMUN 2022



Study Guide UN Human Rights Council

Preventing the use of torture as a method
of investigation





IBSBMUN 2022
UNHRC STUDY GUIDE

TOPIC: *Preventing the Use of Torture as a Method of Investigation*

TW: The following content may include graphic information that readers may find disturbing.

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Welcoming letter

It is our utmost pleasure to welcome you to IBSBMUN 2022 and, more specifically, to the United Nations Human Rights Council - UNHRC. Even though this is the first edition, be prepared for its academic excellence and organizational perfection. We truly believe that your participation in this conference will be an unforgettable experience alongside amazing people.

The purpose of this study guide is to offer you some basic insights into the topic that will be discussed within our committee throughout the conference –*Preventing the Use of Torture as a Method of Investigation*. We hope that you share our belief that the topic at hand is both a current and a fascinating issue and that you will make the most out of the following pages, in which we have sought to include the most important principles of this issue.

A fruitful, organized, and efficient research is the key to representing your country's policies accurately and to negotiating innovative solutions that not only align best with your country's interests but also address the constantly changing environment. Moreover, we strongly advise you to thoroughly read the Rules of Procedure in order to get more accustomed to how MUNs run their course.

Should you have any questions, do not hesitate to contact us via WhatsApp. We are eager to meet you all, both as delegates and as people and to see you debating during IBSBMUN 2022!

We hope that we will help you enjoy this experience and make the most out of it! Again, welcome to the UNHRC Committee!

Please keep in mind that we are at your disposal until the end of the conference, should you have any questions about the topic or the committee in general.

Respectfully Yours,

Ana Vlasie

Karla Hrebenciuc



Committee outline

The United Nations Human Rights Council (UNHRC) is an intergovernmental body within the United Nations whose objective is to strengthen, promote, and preserve human rights around the world, as well as to address and make recommendations on human rights breaches. Throughout the year, it has the ability to examine any thematic human rights concerns and situations that deserve its attention. The UN Human Rights Council comprises 47 members who were chosen by the UN General Assembly for staggered three-year mandates.

The council's headquarters are in Geneva, Switzerland, and it investigates allegations of human rights violations in UN member states, addressing important thematic human rights issues such as freedom of association and assembly, freedom of expression, freedom of belief and religion, women's rights, LGBT rights and racial and ethnic minorities' rights. The United Nations General Assembly established the Council on March 15, 2006, and its first session was held from June 19 to June 30, 2006. The Council adopted its "Institution-building package" one year later to guide its activities and establish rules and mechanisms.





Topic introduction

Article 5 of the Universal Declaration of Human Rights states that “*No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment*”¹. Additionally, in the United Nations Torture Convention of 1984², “torture” is defined as:

“ 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.”

Torture continues to be a significant concern for the international community. The United Nations strives to prohibit torture by its member states as a crucial pillar of international law and humanitarian aims. However, as an international institution with little means to impose such international standards and regulations over its sovereign member states, the UN's authority and ability to prevent, investigate, and reprimand cases of state-sponsored torture is severely constrained.

An area where torture has been persistently present for years now is within the justice system, in particular in the investigation processes. “Enhanced interrogation techniques” that infringe on human rights are still used in the conduct of judicial systems around the globe. Many of the enhanced interrogation techniques used are included in the “white torture” category, which includes binding in contorted stress positions, hooding, subjection to deafening noise, sleep disruption, and sleep deprivation to the point of hallucination.

The UN Convention against Torture has 165 signatory countries. However, many countries have struggled to make torture a distinct crime under their national laws, and governments worldwide appear to continue to torture people in violation of international law.

¹ [OHCHR | Universal Declaration of Human Rights Main](#)

² [Convention against Torture and Other Cruel, Inhuman or Degrading](#)



Definitions and key terms

Enhanced interrogation techniques = program of systematic torture conducted by the Central Intelligence Agency (CIA), consisting of sexual humiliation, beating, sleep deprivation and disruption;

White torture = psychological torture based on sensory deprivation and total isolation;

Torture = intentional infliction of severe pain and/or suffering, whether it be physical or mental, upon somebody under the control of another human-being;

Walling = method used by the CIA in interrogations, implying the use of a collar around the person's neck and the slam of the person against a fake wall;

Waterboarding = method used by the CIA in interrogations, implying the pour of water over a cloth-covered person's face;

Detention = the act, condition, or action of being officially forced to stay in a place/officially detained until the court decision/ pre-trial decisions;

Custody = the direct responsibility and control of someone to care/guard/protect/safekeep someone/something;

Imprisonment = the state of someone being in captivity, being confined in a space ordered by the court under the form of a penalty;

Independent inspection = the given power of a corporation and/or person to perform analysis of a place in order to find possible errors/mistakes;

Complaints Mechanisms (CM) = alongside RMs, crucial component of humanitarian accountability, that gives the victims of a misconduct the chance to report different elements of the case in an anonymous form;

Reports Mechanisms (RM) = alongside CMs, crucial component of humanitarian accountability, that gives the victims of a misconduct the chance to report different elements of the case in a public manner, through news on television, radio, newspapers;

Compensation = the recompense given to somebody in recognition of that somebody's loss, damage or suffering;

Victim = a human-being that is harmed, injured or killed after a violent event, such as an accident or a crime;

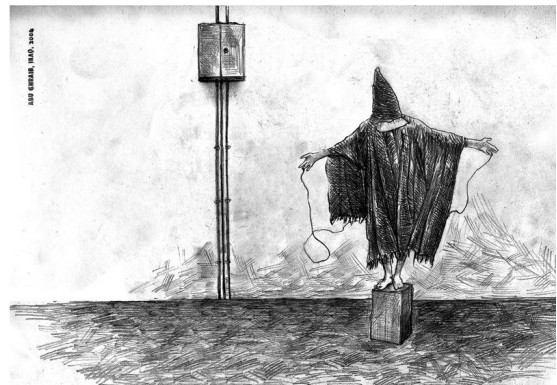
Perpetrators/Offenders = someone that executes harmful, immoral actions and end up committing unlawful acts;

Public awareness = the public level of understanding and acting on an issue at hand;

Historical timeline

The prohibition of torture is one of the imperative obligations of international law recognized and accepted by all Member States. It applies in various situations, such as peace, internal disturbances, and armed conflict. It has to be applied on the basis of different international conventions, treaties and acts that demand such actions. Despite the international and regional obligations had by the Member States, the use of torture in order to obtain information in different scenarios remains a permanent conducted action.

Torture has been documented since the 13th century and is known to have been used as a method of “finding the offender” in different unlawful behaviours. Since then, many types of torture have been a part of the criminal justice domain and have had the power to “determine” the finale of a trial.



In the 17th century, after the humanist philosophies, the Enlightenment Age, and the Bill of Rights, the idea of torture being normal has started to fade into more humane actions that took into consideration the rights and liberties of a person. In the 20th century, after the adoption of the Universal Declaration of Human Rights (1948), the ban of torture in the Member States has been made mandatory.



In our century, the use of torture is mostly done covertly, without the eyes of the public. Since the attack on the Twin Towers on 11th of September 2001, the CIA made the use of torture necessary in interrogations and developed a long list of methods that are meant to reinforce the power of the government.

Current situation

The prohibition of torture is universally recognised as a subject of international law, with 80 signatories and 154 States parties to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Nonetheless, torture is still a standard procedure, regrettably.

According to Amnesty International's research, regular criminals and criminal suspects are the most common targets of state agencies nowadays. Since 1997, they have reportedly been tortured or ill-treated in over 130 countries. During the same period, torture and ill-treatment were allegedly employed against political prisoners in over 70 countries, as well as nonviolent demonstrators in over 60 countries.³

Individuals are being arrested and imprisoned all around the world without the benefit of a fair trial. Prisoners and detainees may be tortured or subjected to various forms of ill-treatment, or they may be held in conditions that qualify as cruel and inhumane. Although torture and ill-treatment are outlawed, most states fail to comply with international human rights legislation, international humanitarian law (rules of war), and general international law. Individuals are being arrested and imprisoned all around the world without the benefit of a fair trial.

³ [Amnesty International - Campaign Against Torture Media Briefing](#)



Previous measures

- **at the international level:**
 - Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT - 10 December 1984)
 - Universal Declaration of Human Rights (1948);
 - International Covenant on Civil and Political Rights (1966);
 - Geneva Conventions (1949);
 - Statute of the International Criminal Court (1998).
- **at the regional level:**
 - European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (26 November 1987)
 - Inter-American Convention to Prevent and Punish Torture (9 December 1985)
 - European Convention for the Protection of Human Rights and Fundamental Freedoms (1950);
 - American Convention on Human Rights (1978);
 - African Charter for Human and People's Rights (1981);

Main actors

USA

The terrorist attacks on September 11, 2001, were so severe that they had global security consequences. Many countries strengthened state officials' legal authority. As a result, torture has become a more common method of extracting vital information from detainees accused of organizing terrorist attacks. Human rights may be suspended in the name of national security and counter-terrorism.

The story of Guantanamo Bay exemplifies how counter-terrorism has overshadowed human rights. Guantanamo Bay is a detention facility in Cuba that was constructed by George W. Bush in order to hold Al Qaeda militants during the War on Terror. Detainees were denied



rights provided in the United States constitution and laws because they were declared to be outside of US territory and thus outside the jurisdiction of American laws and constitution. The US further argued that the detainees constituted a new class, terrorists, who were not covered by the Geneva Conventions, which define 'prisoners of war,' 'combatants,' and 'civilians.' Despite the fact that the Geneva accords state that it is impossible to slip outside of these three categories, the US has held up to 740 inmates at Guantanamo Bay. Stress positions, mock executions, solitary confinement, hooding and other forms of sensory deprivation, removal of 'comfort items,' forced nudity, forced grooming, exploiting detainees' fears, exposure to cold weather or water, and allowing an interrogator to use a wet towel and dripping water to induce the misperception of suffocation were among the officially authorized 'enhanced' interrogation techniques.⁴

The involvement of private military and security firms exacerbates the problem. Two US-based companies were involved in the torture of Iraqi detainees in the Abu Ghraib jail and other Iraqi prisons where they were contracted for interrogation and translation services.⁵ The privatization of such operations has resulted in less transparency and accountability when it comes to detention facility misconduct.

Uzbekistan

Torture of detainees is widespread in Uzbekistan's criminal investigations, and it has become an unmistakable feature of the government's crackdown against independent Islam. Uzbekistan's leadership refuses to hold police and security personnel accountable for crimes of torture, and even implicitly encourages torture by airing public "confessions" of political detainees as political propaganda tools. Implementing legal and judicial reform to prevent torture, as well as ending impunity for it, should be a top priority for the Uzbek government and all parties concerned with human rights and the region's security and stability.

Torture in detention in Uzbekistan has been documented by Human Rights Watch for many years, including beatings with rubber truncheons and water-filled bottles, electric shock, hanging by wrists and ankles, rape and sexual humiliation, asphyxiation with plastic bags and

⁴ [The Justice Campaign](#)

⁵<http://www.globalresearch.ca/the-privatization-of-war-mercenaries-private-military-and-security-companies-pmsc/21826>



gas masks, threats of physical harm to relatives, and denial of food or water. Since President Mirziyoyev came into office in September 2016, it has also documented cases.⁶

Egypt

In Egypt, successive regimes have consistently utilized torture in response to any kind of resistance, even peaceful demonstrations. The government of President Abdel Fattah al-Sisi is no exception, and has utilized stronger counter-terrorism laws to justify a crackdown on perceived opposition (including against people with real or perceived links to the Muslim Brotherhood).

The Egyptian government issued a combined periodic report to the United Nations Committee Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment on October 5, 2021.⁷ Following a two-decade absence, the report is nothing more than a return of the government's efforts to whitewash its human rights breaches and terrible record before the United Nations. Egypt is experiencing increasing international condemnation for its human rights record, with thirty-two United Nations member states issuing a joint declaration condemning the country's human rights status.⁸

Through the complicity of the public prosecution and the judiciary, Egypt provides perpetrators of torture with a conducive climate of impunity, despite the absence of any serious scrutiny from the parliament. The public prosecution and the judiciary's complicity has contributed to the execution of death sentences in cases where confessions were extracted through torture and defendants' rights were violated. Furthermore, the state opposes any independent efforts to resolve legislative shortcomings in order to outlaw torture.

UK

⁶ [Uzbekistan: Torture Widespread. Routine | Human Rights Watch](#)

⁷ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fEGY%2f5&Lang=en

⁸ [States break silence to condemn Egypt's abuses at UN rights body - Cairo Institute for Human Rights Studies](#)



Despite espousing human rights values, the United Kingdom has been linked to torture in recent years. Across the UK and in various aspects of governance, occurrences of ill-treatment have gotten worse, in recent years, since the last evaluation by the Torture Committee in 2013. The administration abandoned its anti-torture effort in 2015, and the move has had an impact.

The government's Intelligence and Security Committee (ISC) released a report⁹ in 2018 revealing that the UK condoned the rendition, kidnapping, and torture of terrorist suspects following the 9/11 terror attacks in the United States. Despite the fact that the ISC report was a useful starting point, we still don't know the entire amount of abuses or how politicians were engaged.

The United Nations Committee Against Torture emphasized in May 2019 the need for the UK government to follow through on former Prime Minister David Cameron's pledge to undertake an impartial, judge-led inquiry into the incident. The number of violent events in prisons in England and Wales is at its greatest in ten years, self-harm incidences are up 20% from previous years, and half of the prisoners claim mental health problems, all of which are aggravated by overcrowding, which has been a problem for 15 years.¹⁰

Mexico

Since 2006, less than 1% of the tens of thousands of investigations into the use of torture in Mexico have resulted in convictions, demonstrating the country's incapacity to combat such abuse. According to new data¹¹ released by the Mexican Commission for the Defence and Promotion of Human Rights, while 27,342 inquests into torture were launched nationwide between 2006 and 2018, judges handed down just 50 convictions. The report highlights that more than half of the torture allegations recorded during this time period were linked to the armed forces, which former President Felipe Calderón deployed to the streets nearly 15 years ago to combat Mexico's organized crime groups in a "drug war" that is still ongoing today.

⁹ ["Detainee Mistreatment and Rendition" - Intelligence and Security Committee reports and our response | Freedom from Torture](#)

¹⁰ [Torture in the UK: update report](#)

¹¹ [Cp: La tortura se practica de forma generalizada y sistemática por autoridades mexicanas al amparo de la impunidad - Comisión Mexicana de Defensa y Promoción de los Derechos Humanos](#)



Torture reports are frequently undocumented. According to the research, just around 1% of the 36,401 complaints filed with national and state human rights commissions and the Executive Commission of Attention to Victims were legally registered in the National Victims Registry.

Further research questions

1. Are the current conventions and protocols a strong enough effort in the fight for the prevention of Torture, or would a different one be needed?
2. How can we make sure that states uphold the Standard that signed the UN Convention against Torture uphold it?
3. Are there any new measures or aspects regarding this issue that have been overlooked, and what measures can be taken in order to raise further awareness about this issue worldwide?
4. What are the Medical Ethics that need to be taken into account?
5. Do psychologists take part in interrogations that involve torture or other forms of degrading treatment? Could they have an impact in such a scenario?

Further reading and bibliography

[Torture - Amnesty International](#)

[ENDING THE TORTURE TRADE](#)

[Amnesty International - Campaign Against Torture Media Briefing](#)

[NATIONAL AND INTERNATIONAL REMEDIES FOR TORTURE](#)

[Preventing Torture - An Operational Guide for National Human Rights Institutions](#)

[Combating Torture During Police Custody and Pre-Trial Detention](#)



UNITED NATIONS MANUAL ON THE EFFECTIVE PREVENTION AND INVESTIGATION OF EXTRA-LEGAL, ARBITRARY AND SUMMARY EXECUTIONS

Death Investigation, Coroners' Inquests and the Rights of the Bereaved

* The Report Movie; "Does Torture Prevention Work?" by Richard Carver and Lisa Handley