



## NO JUSTIFICATION FOR TORTURE

Press statement for International Day in Support of Victims of Torture

26<sup>th</sup> June 2020

As an institution working with forced migrants and people affected by conflict, we interface with and support victims of torture by providing medical rehabilitation and psychosocial support. The 26<sup>th</sup> June, the International Day in Support of Victims of Torture, is thus an important date in our annual calendar. Proclaimed by the UN General Assembly by resolution **A/RES/52/149**, the annual day was established with a view to the total eradication of torture and the effective functioning of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. 22 years later, and in the midst of a pandemic, we are not yet there. The focus, instead, is on how torture has in some respects increased in the era of COVID-19.

**Legal frameworks:** Torture is a crime under international law and a crime against humanity when committed as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack. It is *prohibited and cannot be justified under any circumstance*. Prohibition of torture is part of customary international law and is binding on every member of the international community even though some have not ratified the international laws on torture.

A number of legal frameworks have been put in place to combat torture at the international, regional and domestic level. *These include The United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, The Universal Declaration of Human Rights, The International Covenant on Civil and Political Rights, The African Charter on Human and People's Rights and, the Robben Island Guidelines for the prohibition and prevention of Torture in Africa. Uganda has ratified and domesticated the above laws under its 1995 Constitution and The Prevention and Prohibition of Torture Act (2012). The latter diverges from international frameworks in that, in addition to state actors involved in torture, it also recognises non-state perpetrators. Under Ugandan law, therefore, freedom from torture, whether by state or non-state actor, is a non-derogable right, that is, it is an absolute right.*

**Current situation:** Despite the existing legal frameworks prohibiting torture, torture continues to be used in conflict situations and even during supposedly peaceful times. Even prior to the pandemic, incidents of torture by security organs featured in the news. In the last three months, however, these appear to have been exacerbated by the pandemic, with Uganda's national news dominated by the ordeals of citizens who have been tortured by security organs such as the Police and Local Defense Units (LDUs) in the name of enforcing presidential directives related to COVID-



19. Uganda is not alone in this; other countries such as Kenya and India have also seen incidents of torture of civilians in the course of enforcing of COVID-19 directives.

What happens when an institution like Uganda Police Force, one of the institutions mandated to receive cases of torture, is itself implicated in violating the non-derogable right to freedom from torture?

**Lacunae:** There is still an enormous knowledge gap on what amounts to torture, the various forms it takes, that is both physical and mental, and that, under Ugandan law, it can be perpetrated by a public official or an individual acting in a private capacity. This knowledge gap means that, even when they are badly hurt, victims may not know that in the eyes of the law they have been tortured. Additionally, victims may not know where to report cases of torture. Those who allege torture by the police may not even know of the existence of a Police Standards Unit that handles cases reported against police officers, or of the role of the Uganda Human Rights Commission in investigating and hearing cases of torture.

Poor investigation and documentation of cases of torture inhibits prosecution of torture cases. Physical wounds are not the only evidence of torture, as torture can also be psychological such as unusually long periods of interrogation at a police station or other location. Some methods of torture are sophisticated in that they leave no physical mark, making it difficult for medical personnel to trace torture signs unless highly advanced technology is used. All these make it much more difficult to document torture.

There exists a laxity to prosecute cases of torture, especially where security personnel like police, the army and prisons are implicated. Where an influential person is a victim there is more media coverage than when the victims is an ordinary citizen.

### **Recommendations;**

*Massive awareness* raising sessions need to be organized in communities and detention facilities to extensively discuss torture. Messages should be sent out on televisions and radio stations to sensitize masses on what constitutes torture and where cases can be reported.

*Effective investigation and documentation of cases of torture.* Guidelines laid out in the Istanbul Protocol on the investigation and documentation of torture and other cruel, inhuman and degrading treatment should be followed. Investigators in cases of torture should be thoroughly trained on how to effectively investigate and document incidences of torture for successful prosecution.

*Need for continuous trainings for security personnel on legal provisions for torture.* Refugee Law Project has conducted various trainings for security organs like the police, prisons and Uganda



Peoples Defense Forces but, there is need to conduct more trainings for newly recruited personnel.

*Prosecution of perpetrators should be a priority.* The International Crimes Division of the High Court has the jurisdiction to hear cases involving international crimes, namely crimes against humanity, war crimes and genocide. Torture can be an element in each of these.

Most importantly, **interventions should be victim centered and rehabilitation focused.** The effects of torture are disastrous ranging from physical injuries that might irreversibly affect a person's physical functionality to mental health challenges like trauma and Post Traumatic Stress Disorder. Victims of torture need medical rehabilitation and psychological care, if they are to substantially recover.

As we commemorate this international day, let us remember that **there is no justification for torture. Freedom from torture is an absolute right to be enjoyed by everyone.**

Wishing you a wonderful commemoration of the International Day in support of victims of torture!