



**UN International Day in
Support of Victims of Torture
26 June 2002, Tbilisi, Georgia**



TOGETHER AGAINST TORTURE



**Coordinator
EMPATHY, Psycho-Rehabilitation Centre
for Victims of Torture
(RCT/GEORGIA, EMPATHY)**

**Sponsor
OSCE/ODIHR**

**Conference venue
Office of Public Defender of Georgia**

CONFERENCE

TOGETHER AGAINST TORTURE

EMPATHY,
Psycho-Rehabilitation Centre for Victims of Torture

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“TOGETHER AGAINST TORTURE”

Conference

26 June, 2002

Public Defender’s office, White Hall
(11 Machabeli St. Tbilisi)

Program

11:00. – 11:30.

Registration

11:30. – 11:50

Opening session:

Dr. Mariam Jishkariani - Information on the UN International Day against Torture. Worldwide activities against Torture

Welcome speeches

Ms. Rusudan Beridze - National Security Council, Human Rights Secretary

Ms. Pascale Roussy - OSCE Mission to Georgia, Human Rights Office, Acting Head

Ms. Nana Devdariani – Public Defender of Georgia

Ms. Nana Kakabadze – Former Political Prisoners for Human Rights, Chairman

11:50 – 12:10.

Torture Persecution and Measures Taken by the State - Ms. Rusudan Beridze, Human Rights Secretary, National Security Council

12:10. – 12:30.

Problems of Torture in Georgia and Activities Implemented by the Public Defender’s Office – Mr. Nana Devdariani, Public Defender of Georgia.

12:30. – 12:50.

The Practice of Torture in Modern Georgia – Mr. Gela Nikolaishvili, Former Political Prisoners for Human Rights.

12:50 – 13:10.

Strategies for Eliminating Torture – Mr. Alex Anderson, Director, Human Rights Watch, Caucasus Office.

13:10. – 13:40.

Medical and Psycho – Social Consequences of Torture. Problems of Rehabilitation for Torture Victims in Georgia. – Dr. Mariam Jishkariani, RCT/Georgia – EMPATHY, President.

13:40. – 14:00.

Coffee Break

Women Prisoners – Torture Victims Art – Works Sale - Exhibition

14:00. – 14:20.

Mental Health Care and Human Rights – Dr. George Naneishvili, Prof. Chairman, Georgian Psychiatrists' Society.

14:20. – 14:40.

Terrorism and Children - Dr. David Zurabashvili, Prof., Director on Education, Research Institute of Psychiatry.

14:40. – 15:00.

Declaration “Together against Torture” – Dr. Mariam Jishkariani, President, RCT/Georgia – EMPATHY

15:00. – 15:30.

Discussion

Theme: Declaration “Together against Torture”

15:30 – 16:00

Accepting of the Declaration to be submitted to the Georgian Parliament and the President of Georgia.

Introduction

Torture leaves an inefaceable trace upon a person. It is possible to eliminate the physical after-effects of torture, but not always; as for the mental anguish, it constantly follows the victim of torture.

The United Nations General Assembly officially proclaimed 26 June as the UN International Day in Support of Victims of Torture (UNGA Resolution 52/149). It was on that day – on 26 June 1987 – that the UN ‘Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’ came into force. Although this Convention remains the least ratified among the UN most significant treaties. Only 128 of the 190 UN Member States have ratified this Convention (according to the data of “The International Rehabilitation Council for Torture Victims – IRCT).

Georgia acceded to this Convention in 1994 but, unfortunately, the relevant amendments have not been introduced to Georgian legislation yet; the latter fact hampers the fight against torture in Georgia and, in our view, requires significant joint efforts on the part of governmental and non-governmental institutions, international organizations, mass media and the whole society.

It is the fifth time (the 5th consecutive year) that this Day has been celebrated in many countries of the world and IRCT (Denmark, Copenhagen) has been coordinating this campaign. On 26 June 2002 we acceded to this global international campaign in which there participated 95 countries (according to IRCT data) and drew up a Declaration “Together Against Torture”. The above Declaration was adopted on 26 June 2002 at the Conference ‘Together Against Torture’ held at the White Hall of the Public Defender’s Office of Georgia.

The Conference was financially supported by OSCE/ODIHR. The IRCT (Denmark, Copenhagen) provided information and relevant materials, and technical support was provided by PRI – Penal Reform International.

The above event was coordinated by the Rehabilitation Center for Torture Victims “Empathy”, other organizers of the Conference being given below: Georgian Psychiatrists’ Society, the Scientific-Research Institute of Psychiatry, Former Political Prisoners for Human Rights, The Ombudsman’s Office of Georgia.

The materials provided by IRCT were circulated among the participants of the Conference. During the Conference on the initiative of the Center “Empathy” and with the immediate participation of the employees and the inmates of the Women’s Colony of Tbilisi there was held an exhibition and sale of goods hand made by the women inmates during the classes of art-therapy.

The Conference was attended by representatives of governmental, non-governmental and international organizations as well as mass media.

Representatives of various NGOs and public figures signed the Declaration “Together Against Torture”.

The above document was forwarded to the President of Georgia, Mr. Eduard Shevardnadze; Chairperson of Parliament of Georgia, Mrs. Nino Burjanadze and Chairperson of the Committee on Human Rights of Parliament of Georgia, Mrs. Elene Tevdoradze.

The present publication includes main speeches made at the Conference and the adopted Declaration.

ACKNOWLEDGMENTS

This Conference could not be possible without commitment and joint efforts of quite a number of organizations and individuals, both in Georgia and abroad. The Centre “Empathy” has a great pleasure to express its deep gratitude to all of them. First of all, to OSCE/ODIHR and its mission to Georgia for financial support of the Empathy’s pilot project on monitoring and prevention of torture in Georgia which this event was a part of. The project has been implemented in the Tbilisi pre-trial detention centre and the juvenile colony and has proven the number of imprisoned people – victims of torture is really alarming.

We are very thankful to International Rehabilitation Council for Victims of Torture (IRCT, Denmark, Copenhagen) which provided the event with various informational materials related to the UN International Day in Support of Victims of Torture.

We are especially grateful to Mr. Alex Anderson, Director of the Caucasus office of Human Rights Watch, for his commitment and highly professional presentation at the Conference.

Office of Penal Reform International in Tbilisi provided invaluable technical support and we really thank its staff for this.

We really appreciate contributions of all speakers and those having taken part in the discussions, representing governmental, non-governmental and academic organizations and media.

Our special thanks to Mrs. Rusudan Beridze, Human Rights Secretary at the National Security Council of Georgia, and Mr. Temur Silagadze, Chief Psychiatrist of the Ministry of Labour, Health and Social Protection.

We greatly value the constant efforts of the Ministry of Justice of Georgia in supporting and facilitating the Centre EMPATHY activities aiming to combat against torture in Georgia and rehabilitate its victims.

The Conference was co-organized by a group of governmental and non-governmental organizations: Georgian Psychiatrists' Society, who partly financed the event; Research Institute of Psychiatry; Office of Public Defender of Georgia, which provided its wonderful White Hall that raised immensely the status of the event, and Former Political Prisoners for Human Rights - we thank them very much for their wisdom, commitment and organizational skills, especially, Professor George Naneishvili, Professor Zurab Beria, Mrs. Nana Devdariani, Mrs. Nana Kakabadze, Mr. Gela Nikolaishvili .

We also want to say our thank you to the team which provided technical support before, during and after the conference and, in particular, to Mrs. Natia Nemsadze, translator of the conference materials, and Mr. Konstantin Bogdanov, for preparation of this publication.

And finally it is a great honor for us once again to point out a special contribution of Mrs. Rusudan Beridze in the movement against torture in Georgia who was the first lady to open up the doors of Georgian "closed" institutions for the Centre "Empathy" in 1999 when the Centre started its first project on monitoring and rehabilitation of women prisoners in the female colony in Tbilisi.

We want to hope that this truly joint event will be followed up by regular multi-institutional activities since only long-term efforts and commitment can help eliminate torture in Georgia. The idea of its scope you can get from this publication.

Centre "Empathy"

Coordinator of the UN International Day in Support of Victims of Torture in Georgia

September 2002

Tbilisi

Activities Taken by the State to Eliminate Torture in Georgia

Rusudan Beridze

Human Rights Secretary, National Security Council

In 1994 Georgia acceded to the UN Convention Against Torture and Other Inhuman or Degrading Treatment or Punishment (CAT). According to the above Convention, the state took responsibility to periodically present reports to the Committee Against Torture on the activities that have been taken in order to implement the provisions of the document. Within the deadline Georgia has already presented to the UN the first and the second periodical reports on the implementation of the CAT at the national level. According to the adopted procedure, the Committee Against Torture, in collaboration with the Georgian delegation, examined both reports and introduced to the Georgian party its observations and suggestions concerning the activities to be taken to improve the implementation of CAT's requirements.

The National Security Council discussed the results of consideration of the reports presented by Georgia. Certain proposals were adopted to implement the recommendations of the Committee Against Torture, in working out of which the Service on Issues of Human Rights Protection at the National Security Council played a significant role.

Among the proposals presented by the Committee Against Torture there should be noted those ones which, in compliance with articles 21 and 22 of CAT, suggest to the Georgian party that it should recognize the authority of the Committee to accept and examine complaints - of the individuals being under the Georgian jurisdiction - on the violation of human rights stipulated in the Convention. In this context it should be taken into consideration that Georgia is subscribed to the Additional Protocol of civil and political procedures pact that already provides for such a procedure in respect of the Human Rights Committee. As it is known, the above-mentioned pact contains the provisions on the prohibition of torture. In spite of this the NSC Service of Human Rights Protection Issues had to intensively lobby this question for quite a long period of time in respect of appropriate structures of the country. Eventually, quite recently the Georgian Parliament has made an official statement recognizing competence of the Committee Against Torture.

In November 2003 Georgia has to present the third periodic report to the CAT that will deal with the activities implemented by the state within the period under review as well as with the conclusions and recommendations made by the Committee while considering previous reports.

While considering Georgia's international obligations in this field note should be made of the fact that this country also acceded to the Convention Against Torture of the European Council and recognized the competence of the Committee (CPT) acting within the limits of the Convention. The representatives of the CPT first visited Georgia for two weeks in May of 2001. The delegation of the Committee made a thorough study of the conditions in the police departments, places of confinement, hospitals of mental health at prisons, the guardhouse of one of the military units. As a result, at the end of 2001 the Georgian government was presented a relevant report dealing with the existing drawbacks and concrete recommendations for their elimination. Now this report is published in Georgian and English and is placed on the website of the European Council.

There rises a question: what has actually been done by the state with respect to the struggle against torture and what activities are to be expected in the nearest future?

In this respect I would like to remind you of the statement, made by the President of the country on the New Year eve 2002, declaring Georgia a state being free from torture. Thus, he responded to the initiative of the non-governmental sector but that is not the only point. In the President's view (which I completely share) the conditions in Georgia are already favourable for such decisions to be put into practice. This process is facilitated by the fact that in law enforcement bodies the old mentality is slowly giving ground to new, civilized attitudes stipulated by law. The negative image and distrust, existing in the society towards law enforcement bodies, should necessarily be overcome.

Today, it is a common knowledge – torture and other severe, inhuman and degrading treatment is completely unacceptable for a civilized society. Any public official, his / her protector or an accomplice should be punished by the all strictness of the law. And the punishment should be inescapable.

After the last enlarged meeting of the Georgian government there was issued the President's decree providing for the instructions - to actually make Georgia a zone free from torture - for appropriate agencies. The President demanded that concrete measures should be taken to make every single official of the law enforcement bodies understand the following – they will not be forgiven and will be prosecuted in case of

discovering a case of torture executed by them.

According to the information available, in order to execute the President's decree the relevant agencies worked out concrete action plans. At the end of the current year the heads of these agencies will have to report on the taken activities. As the President of Georgia stated: "if there is no result, we will think of the amenability of those authorities who could not accomplish their duties".

Finally, mention should be made of the document recently signed by the President - the decree #240 of 17 May 2002 "Towards the Activities Strengthening the Human Rights Protection in Georgia". I will bring quotations from the above:

"1. The Prosecutor General's Office of Georgia (N. Gabrichidze) shall be asked, Ministry of Justice of Georgia (R. Giligashvili) and the Ministry of Internal Affairs of Georgia (K. Narchemashvili) shall be ordered:

- a) to ensure the commencement of a criminal case and conduction of corresponding enquiry in the case of revealing any kind of injury on an imprisoned person.
- b) to establish a special control in places of preliminary detention and imprisonment on revealing and eliminating facts of torture and abuse and prosecute persons involved in such actions.
- c) to raise the level of professional training of officials of procuracy, police and prison institutions in order to prevent torture, abuse and degrading attitude /.../

2. The Ministry of Justice of Georgia shall /.../

- a) present proposals on bringing the conception of torture envisaged by the Criminal Code of Georgia in conformity with the requirements of the international "Convention Against Torture and Other Inhuman or Degrading Treatment or Punishment" and prepare a bill on introducing appropriate changes to the Criminal Code of Georgia /.../ "

Concrete deadlines are set for executing all the above tasks. The Deputy Secretary in the field of human rights protection of the National Security Council was made to be in charge of the execution of the above order. Presumably, by the end of this year we will already have had certain data on the implemented activities and will be able to consider the quality of the results.

Problems of Torture in Georgia and Activities Implemented by the Public Defender's Office (In accordance with Public Defender's Report)

Nana Devdariani

Public Defender of Georgia

Traditionally, protection of human rights was within the internal competence of the state and was not the subject of international regulations. The state could treat its citizens the way it would consider expedient.

The UNO Charter, which was adopted in 1945, appeared a turning-point in Human Rights Protection, made this topic "international" and laid a strong foundation for the development of international system of these rights.

The European Convention of Human Rights approved in 1950 came into force in 1953 and was based on the Universal Declaration. The mechanism created by the European Convention is considered the most effective system. It does not only protect rights of an individual, but also determines European standards of human rights. By the present period Georgia has already acceded to a number of the UN very important documents in the field of human rights protection. They cover the pacts on civil and political, economic, social and cultural rights, convention against torture, children's rights, etc. In 1999 Georgia became a full member of the European Council, thus having ratified the European Convention on the Protection of Human Rights and Principal Liberties.

In spite of the above, the situation in Georgia today is undoubtedly very unfavorable. In the process of administration justice, international standards are not almost implemented (there are only few cases of reforma use to documents on human rights in Georgia: five in the Supreme Court and one case of applying the Universal Declaration of Human Rights by the Constitutional Court).

At present (like in the previous years) most intolerable cases of violation of human rights and liberties are encountered in the activities of regional, city and republican police departments. They are mostly linked with the attempts of (a) extracting evidence by violation of regulations established by law (b) extracting evidence and extorting bribes – exceeding the authority - by arresting, searching, beating, torturing, intimidating, deceiving, blackmailing, humiliating people.

In spite of the conducted activities there still have been encountered detainees that bore different kinds of injuries as well as the cases of delayed transfer of detainees to Tbilisi, Kutaisi, Batumi and Zugdidi prisons from the isolators of preliminary detention; their transfer was delayed even for more than a month.

By the recommendations of the Public Defender this issue was discussed at the Board of General Prosecutor's Office of Georgia.

From the report presented to the Board it gets evident that the absolute majority of injured prisoners get different kinds of injuries before the imprisonment as well as due to the falling from stairs while showing resistance to the police, as a result of jumping from upper the floors and so on. The report also states that it becomes impossible to prove that prisoners have been beaten and tortured by the policemen owing to the fact that these prisoners eventually change their testimonies.

The fact that in most cases incidents of beating and torturing of prisoners by policemen are not proved by the offices of the Prosecutor General is caused by the fact that they do not conduct systematic and objective check-ups; prisoners' health examinations are not conducted after they have been inflicted injuries; prisoners are not asked to give testimonies. As a rule, when placing beaten and tortured detainees to prisons prosecutors do not ask the administration of the jails to draw up the relevant records and to immediately transfer them; owing to the latter there appears a possibility that prisoners, under the threat of policemen and fear of their fulfilling the menace, will indicate some fabricated reasons that in the majority of cases will never be verified due to delayed examination of injuries.

The statements of the police and prosecutor's office that these violations (a delayed transfer of the detainees) are conditioned by scanty supply of material, financial and transport facilities are also entirely unacceptable. Violation of law is unjustified and unwarrantable regardless of the reasons. The most important thing here is the fact that no financial, transport or technical facilities are needed in order not to beat and torture a detainee.

The Public Defender personally conducts the examination of the state of protection of human rights and liberties in jails and other places of confinement, personally meets and talks to detainees, checks the documents confirming the reasons for their detention.

From December 2001 to June 2002 there was executed “A Project of a Prompt Response Team” which have been financed by the OSCE Office of Democratic Institutions and Human Rights (ODIHR), as a part of the program against torture. The focus of the project is conditioned by the Georgian reality – by the fact that human rights are most often violated during the detention and preliminary arrest of the person.

The team conducted the monitoring in two types of institutions: first – in the preliminary detention places of the police departments (Tbilisi Department of Internal Affairs, Gldani – Nadzaladevi district), second – in the Military Commandant’s office and the Guard-house (the Garrison of Tbilisi). Besides, the team responds to phone notifications or written applications related to the facts of violation of human rights. It is possible that the above-mentioned project will facilitate the reduction of violation of legal standards.

The Public Defender’s Office widely cooperates with a number of international organizations. With their assistance and financial support different kinds of projects are carried out aiming at: training for officials of the Public Defender’s Office in the field of Human Rights, establishing an informational-documentary centre on the Human Rights as well as conducting seminars and trainings for policemen and procurators.

Much attention should be paid as well to close cooperation with those Non-governmental Organizations, working in the field of Protection Human Rights and Liberties Protection. This cooperation entails joint check-ups in places of imprisonment, especially in the preliminary detention cells, joint publication of materials in the field of Human Rights, development of legislative proposals, etc. I believe that in future these efforts will become more active and due to the joint endeavors significant results will be achieved in the field of elimination of torture in Georgia.

Torture, Inhuman or Degrading Treatment and Punishment in Georgia: Theory and Practice

Gela Nikolaishvili

Former Political Prisoners for Human Rights

After Georgia gained its independence there started a movement for establishing democratic values. In this strive the society and the government unanimously showed their readiness for the highest possible harmonization of the Georgian legislation with international standards, although, during the ten-year history of independence Georgia had to overcome many subjective and objective obstacles, due to which democratic strives declared by the authority remained the mere declarations on the paper. Owing to the latter the scope of violation of human rights was (and is) much higher than permitted for a rule of law state. The reasons for the above are the following:

1. An obsolete legal basis and an ineffective, inquisitorial-type legal system, limiting the citizens' opportunities to exercise their rights (notwithstanding the fact that in the recent years legal reforms have been carried out many drawbacks of the Soviet justice were inherited by the new judicial system).
2. Legal institutions – whose 'prosecuting divergences' are well known and whose intrinsic nature is aimed at not defending a citizen generally, but to defend the existing regime - of the totalitarian regime have remained almost untouched.
3. Weakness of the civil institutions, lack of the awareness of the society in the field of human rights protection, existence of a tradition of common stereotypes.
4. Corrupt state officials and their communist mentality. It entails the most deplorable results in the legal and judicial systems as such officials directly deal with human dignity, freedom and life.
5. Exceeding the rights by the bureaucratic officials and the citizens' state of possessing no civil rights. The structure of the state machinery is entirely based on the inequality of citizens and administration. The new democratic General Administrative Code has not changed yet an ingrained tradition of inequality of citizens and administration in practice.
6. Factual existence of the bureaucracy without salaries and hard economic conditions force a public official to support himself / herself by the abuse of his power.
7. Extremely low living standards of the population of Georgia.

The fact of transforming of "illegal policemen" by state rulers into their support causes particular danger to the society as they (policemen) are used for filling the deep pockets of the officials, on one hand, and on the other hand, to scare and raid politically objectionable persons and groups, to establish false ideas and principles and to succeed in elections with the support of such policemen.

Hence, the status of a policeman is not respected in Georgia; the rating of policemen is very low and according to the public opinion they have more negative than positive functions. The society considers a policeman rather a robber than a defender and a warrantor of safety. The police created such an image itself as their actions in most cases are determined by the aim of gaining interest and not promoting the prosperity of the society; the latter is achieved by any means - from insulting citizens' dignity to dreadful methods of torture. The worst thing is that the existing social environment creates grounds for the existence of this type of a policeman.

During the period of the totalitarian regime, when the concepts of humanism, democracy and human rights were substituted by pseudo-humanism, pseudo-democracy and pseudo-rights, relations between the society and law enforcement bodies were drawn in light colours by the communist propaganda. A person arrested by the support of the system - the law enforcement bodies – should afterwards have inevitably been brought in a verdict of guilty (with the aim of the above a propagandistic background was preliminarily created); thus the principle of presumption of innocence declared on the paper was trampled down; and if any citizen made complaints against the transgressor-policeman he / she was punished for it.

“Abnormal” dissidents and believers were arrested and prosecuted the same way as others - murderers, bandits and addicts.

According to the mentality of our society, almost unchanged from the Soviet period, the law is considered to be an order of the boss and not a law itself. According to the same mentality “we” is the people and the authorities and their defender - law enforcement bodies - are “they”. Hence, the majority of the population of Georgia reasons approximately the same way.

As serving in the police is a very profitable business big amounts of money are paid to get a job there. For example, it costs 2000 US \$ to get a job of a usual traffic policeman, as for higher positions, the prices rise according to the profitability of the office. Naturally, the policeman who pays bribes to get a position will not afterwards live on a scanty salary and will try to reimburse his / her detriments and increase the latter sum.

Gathering “shares” in the law enforcement system starts from the lowest rank policemen and goes up to the highest echelon. It is hard to say whether this vertical line skips the stage of some honest policeman or where its top is (the head of the department? deputy minister? minister?), but it is a fact that there exists a stable system of “shares”.

Policemen break the law more often than ordinary citizens and the main reason for it is a mercenary motive. The easiest way on the part of the policemen is to impose levies upon those with a bad reputation (with criminal records). It is not difficult “to put stealthily” drugs or a gun to the latter or pin an accusation on them, as everybody will easily believe it. A good way of making money is also some petty crimes - accidents, neighbours’ quarrels, street fights (hooliganism), etc. It is necessary to have the consent of the policemen (that always gain profit) in order to commence such cases.

It is a common knowledge that due to the corruptive environment in Georgia it is not difficult for a transgressor to buy freedom. A citizen reasons that it is better to pay the police at the initial stage, even for a negligible crime, as afterwards a deal with an investigator, public prosecutor and judge will become more expensive. To cut a long story short, if you have much money or have “a protector” “above”, you can commit any kind of crime and escape punishment, or get a minimal (symbolic) penalty.

In the activities of the police there exists a well-elaborated system of “left” and “right” proceedings. In the policemen’s language it has the following meaning: “left” proceeding – they get money from the suspect and do not commence a case; “right” proceeding – they institute proceedings against the suspect. Crimes are not registered not only due to the desire of getting money but also due to some calls from the ‘upper officials’ – that is also a type of self-interest.

When it is decided that due to some reasons (a case was made public, an offensive criminal, a victim is an intrigant, etc.) it is necessary to make the case “right” and sentence the suspect to imprisonment, well elaborated methods of torture are being applied to force the victim to give out as many evidence as possible and self-incriminate himself / herself. In particular, the policemen beat the victim on palms of hands and feet, body - using rubber clubs, chair back and special flexible iron – as a result of using the above ‘instruments’ almost no bruises remain on the body. Methods of torture are versatile: slapping ears, locking the victim in a safe and beating it by clubs from outside, hanging the victim by stretched hands and beating him (the so called “swallow”). A special mention should be made of a tested method - a mobile telephone is switched to a 250 Volt battery being connected to two wires – with turning round the phone receiver the electricity increases. Practically no one stands such a torture and the victim is ready to sign any document.

Although almost nobody likes policemen in other countries either in democratic countries the society shows trust and respect toward them as there exists no organized legal body for combating the crime except the police being rendered this authority by law. As for Georgia, police is discredited here due to the above reasons and the society thinks that the law enforcement bodies protect peace and interests of the government and not of the people.

Present Georgia is considered a country sunk into corruption and the study of the reasons of this disease in a single body might not be justified. But the urgency of speaking of corruption and other diseases in law enforcement bodies is stipulated by the fact that their outcomes are directly connected to the problem of protecting the life, health and dignity of concrete people.

Strategies for Eliminating Torture

Speech given at the conference “Together Against Torture”, 26 June 2002, Tbilisi

Alex Anderson

Human Rights Watch

Depressingly, there has been little real progress in eliminating torture to show for Georgia’s decade of independence. Torture by police and other law enforcement officials remains commonplace, widespread, even routine. The use of torture has sunk very deep into the culture and working methods of Georgian police.

Three to four years ago, a spate of detainees (5 in all) died after falling from the high windows of police stations in Tbilisi. This epidemic passed for a while, but yet another detainee died last year when he fell from a high window at Poti police station. None of these cases has been satisfactorily investigated, no one has been brought to justice.

Nothing could offer a better illustration of the need for a system of independent investigation of complaints of mistreatment and torture by police than this latest defenestration in Poti, of a young man called Temur Mikia. In March of last year Human Rights Watch wrote to President Shevardnadze on another complaint of torture in Poti. A detainee called Giorgi Jikidze complained that he was subjected to electric shock torture in the Poti procurator’s office. His allegations are strongly supported by forensic evidence. The official Jikidze accused of being his chief torturer is the same official who oversaw the initial stages of the investigation into the death of Temur Mikia. This investigation now seems bogged down and going nowhere, and we have heard that some of the police officers accused of involvement in Mikia’s death have since been promoted.

The sheer volume and frequency of reports of not only beating, but the use of electro-shock torture too, indicates to me that the use of torture has become an integral part of what is a deformed criminal justice system. In particular, extracting confessions from suspects, using either torture or the threat of torture appears to be central to the de facto working methodology of the police. If there are any improvements to be observed, they belong to the last year or so, and they consist mainly in some improvements in transparency, which help to identify and quantify the scale of the torture problem, and also some factors that help us to diagnose the roots and sources of torture. On the transparency side, I consider we can thank some developments at the ministry of justice: the prisons and pre-trial isolators are comparatively more open, and are now revealing quite a lot of information about torture in police stations. The building up of the Ministry of Justice’s forensic bureau under Maia Nikoleishvili is also helping to give us a clearer picture of the dimensions of torture. On the diagnosis side, many people associated the police culture of brutality very closely and personally with the previous leadership of the Ministry of the Interior. But the fact is, Targamadze has gone, but torture very clearly remains. I have been very interested to hear from Nana Kakabadze about the feedback she and Rusudan Beridze have had from policemen all over the country at their series of seminars in police stations, when they confronted policemen on the question of torture. In contrast to their generally hostile reaction to being asked to act against religious mob violence, police officers have readily accepted that they must change their ways, and eliminate torture from their working methods. I think what we are learning is that torture persists because of inertia, because there are no real pressures being exerted on the police in the everyday working of the criminal justice system compelling them to change their routines, methods, scripts, or appetites. The last major opportunity was the new Criminal Procedure Code introduced in 1998, which would have brought in a wide range of protective provisions for detainees, suspects, or witnesses. But this was ripped to shreds by parliament in summer 1999, after lobbying from the Ministry of the Interior and General Procuracy, and the dozens of amendments parliament introduced into the code stripped away protective provisions. Human Rights Watch published a detailed report on this in October 2000: “Backtracking on Reform: amendments undermine access to justice”. On the big things that can improve the torture situation both the government and parliament have so far demonstrated a failure of political will.

The government must develop a clear big picture plan for a criminal justice system without torture, a criminal justice system inhospitable to torture, and move relentlessly toward its goal – every year putting more of its components in place. In particular, re-orientation of policing: moving investigation methods away from a reliance on confessions, toward a reliance on witness testimony.

NEED TO MOVE TO:

Internationally, several studies have shown that identification of suspects by members of the public accounts for 90% of convictions, i.e. the critical ingredient for police success in getting convictions is the willingness of members of the public – victims and witnesses – to provide information to the police that identifies the suspect. Without such information, chances that a crime will be solved fall to about 10% (See David Bayley, “Police for the Future” 1994: pp 7, 8, 59).

HOW TO GET THERE? – interlocking, mutually reinforcing reforms are needed:

- i. Raise level of public trust in law enforcement bodies – drastically reduce police and procuracy numbers and raise their pay; create a credible independent body to investigate and prosecute complaints of police abuse; implement local civilian oversight and consultation; institute a reliable victim and witness care scheme.
- ii. Evolve the methods, organization, and culture of criminal investigation – closer integration and teamwork of frontline police officers and investigators produces better clear-up rates (see Bayley, p. 60); train frontline officers better on collecting evidence that will secure convictions; create an organizational link between the criminal investigation function and overall crime prevention strategy.
- iii. Make the investigation and trial environment inhospitable to confession-based evidence: reform and upgrade state provision of legal defense for criminal suspects; ensure that courts always throw out cases based only on confession evidence *and* refer complaints of torture to an independent investigation body.
- iv. Expand the information base on court verdicts and processes. There needs to be information available on every court verdict, including a summary of the evidence. Only then can we actually start measuring the frequency with which uncorroborated confessions are securing convictions; the frequency with which courts ignore credible complaints of torture. And only from this baseline of information can we measure and chart progress or lack of it toward a criminal justice system based on witness testimony, a criminal justice system that does not rely exclusively on confession evidence.

On the one hand there needs to be a long term plan of criminal justice reform, to include reform of the Criminal Procedure Code, the strengthening of legal defense for suspects, new institutions such as an independent police complaints authority (the creation of which was mandated by the UN Human Rights Committee in April this year). The conception and creation of new or renewed institutions will take several years, and a presidential commission under the chairmanship of Lado Chanturia has been created to do this work.

But this long term planning has to be accompanied by immediate measures too. This is essential, since both the government and parliament have to start demonstrating the political will to battle torture now, today, this week, this month, this year – otherwise any long term plan will become vulnerable: to remaining a grand theory existing on paper only, with an unbridgeable gap between its conception and the possibility of its implementation.

Let me suggest specific measures for immediate adoption. On the one hand I call upon the government to introduce some easily achievable administrative measures to help to guarantee those protective provisions that remain in the existing Criminal Procedure Code, and to the government and parliament together to push through a small, manageable packet of amendments to the existing Criminal Procedure Code, to plug at least a few of the gaping holes in human rights protection during the period of 1,2, 3 years before we can realistically expect the adoption of a new Criminal Procedure Code as a result of the work of the Chanturia commission.

Administrative measures

There is a high correlation of torture with violation of the protective provisions and deadlines of Article 72 of the Criminal Procedure Code. The facts of police abuse can now be traced through official government figures, e.g. 44 of 46 detainees transferred into pre-trial isolators from police stations in January/

February 2002 in violation of the Article 72 deadlines exhibited injuries. Further figures given by the Ministry of Justice, published by *Akhali Taoba* newspaper 28 March, demonstrate the scale on which even those minimal procedural protections remaining in the current Criminal Procedure Code are being flouted by law enforcement agencies, and that there appears to be no functioning mechanism to guarantee them. According to the Ministry of Justice figures, over the period January 2001 to January 2002, 493 detainees were transferred to the Tbilisi Ortochala 5th isolator from police stations in violations of the Article 72 deadlines. Of these 493 detainees, 351 bore injuries. Over the same period 104 detainees are recorded as having been transferred to the Kutaisi isolator in violation of the Article 72 deadlines. 74 of these detainees were found to have injuries.

Administrative mechanisms should therefore be introduced for automatic, prompt, impartial investigation of such injuries, and of violations of Article 72 provisions. As the Ministry of Justice is currently looking to create a new administrative arrangement to stop corrupt early releases of prisoners: this arrangement should simultaneously be planned for the purpose of implementing releases of detainees that are mandated by the protective provisions of Article 72 of the current Criminal Procedure Code.

More comprehensive collection of reliable data on court decisions in criminal cases should also be initiated immediately, so we can have the kind of evidence being accepted by courts catalogued, analysed and published.

Criminal Procedure Code amendments for this parliament:

I suggest that the government should table and support the passage through parliament of a manageable packet of amendments at the earliest opportunity, to include:

- restoration of the right of detainees, suspects, and witnesses to petition a court at any time with complaints of abuses committed against them during detention and the investigation;
- abolition of the 12 hour period currently allowed to law enforcement agencies under Article 72 to detain someone prior to affording him the rights and protections of a suspect;
- a fuller restoration of the rights of witnesses (Article 305). Amendments in summer 2001 restored the right in principle of a witness to the presence of a lawyer, but left undefined what the lawyer is allowed to do for his client. Police abuse of witnesses, such as mis-designating suspects as witnesses in order to deprive them of legal protection, has discredited the very term “witness”, so if we are to move toward the typical model of policing and achieving criminal convictions I described earlier, re-establishing the credibility of the very understanding of what a witness is, and people’s confidence in how they will be treated as witnesses, we need to proceed from re-establishing the fullest range of protections for them.

Physical and Psycho–Social Consequences of Torture. Problems of Rehabilitation of the Victims of Torture in Georgia.

(This presentation was made at the XIIth World Congress of Psychiatry, Section “Sequels to Torture and Persecution”, 27 August, 2002, Yokohama)

Dr. Mariam Jishkariani

Psycho – Rehabilitation Centre for Victims of Torture “EMPATHY”

The study of psychological and physical outcomes of torture has widely started since the World War II among the former deported persons and former captives of the concentration camps. But such studies are very scanty and almost are not conducted among the victims of torture of the totalitarian regime of the former Soviet Union. To our knowledge, the torture methodology elaborated and refined during that period has been widely used in the post-Soviet countries up to the present day, especially among the detainees kept in the police isolators.

“The Conclusive Remarks in respect of the second periodic report of Georgia” of the UN High Commissariat of Human Rights Protection (Georgia, 09/04/2002, Committee of Human Rights Protection, 74th Session, 18 March - 5 April, 2002) deal with the wide practice of torture in the police preliminary detention cells in Georgia.

Significant democratic reforms carried out in 2000 in Georgia: transferring the prisons from the system of police to the system of Ministry of Justice and opening the doors of prison to the society since 2001 (Public Overseeing Council was formed at the Ministry of Justice) made it possible to monitor the mental and physical condition of prisoners and implement the program on “Medical and Psycho-Social Rehabilitation of Women Prisoners”.

The above program was being implemented between April 2001 and April 2002, during 12 months in the Women Colony of Tbilisi by the financial support of PRI (Penal Reform International).

The study covered two stages. At the first stage the main object of the study was to research the problems of mental health of women prisoners and define target groups for rehabilitation. At this stage the study was carried out by means of a specially worked out clinical questionnaire “Questionnaire on the Research of Mental Health of Prisoners”; the Bass-Dark Aggressive Test, the Taylor Anxiety Test, the Hamilton and Beck Depression Questionnaire and MMPI Test were applied as well. On the whole 131 women prisoners between the ages of 20 to 72 were investigated. At the above-mentioned stage the main target group for the future research and rehabilitation was revealed. The members of this group were the women-prisoners - victims of torture (48% of 131 women-prisoners - 65 women).

At the second stage in order to research the victims of torture there was used a specially worked-out “Program of Medical and Psycho-Social Monitoring of Victims of Torture” covering the wide range of information: personal particulars (anonymity was observed), a story of torture and data about torturers, methodology of torture, information about psycho-physical breaches in dynamics (from the moment of torture to the moment of study), etc. Harvard Trauma Questionnaire and PTSD (Watson 1991) Test were applied as well. Diagnostics was carried out according to ICD - 10.

As a result of the study it was revealed that the main places, where torture took place, were the police preliminary detention cells (55 cases - 85%), as well as the prison isolator (till 2000) and was executed by a group of torturers in 56 cases (86%).

The psychological methods of torture have been widely used. (see Table 2).

As a result of the study there were identified the methods of torture, both of physical and psychological.

The situation is often aggravated by the factors caused by an additional inhuman treatment: providing no lawyer to the detainees, leaving them for more than 72 hours at the police stations, not giving them the opportunity to contact any of the family members or close persons; the detainees often lost the feeling of day or night, orientation in time and weekdays.

As we can see, in 55 cases - 85% torture was of a systematic character and lasted from 1 day to 9 months.

The observation reveals high level of the complex physical and psychical disturbances in the acute period after the torture (49 % - severe cranial traumas etc), in 31 cases (48 %) with suicide tendencies or para-suicide actions. Lack of professional medical aid and in most of cases inhuman treatment of the prisoners caused chronic complex physical and mental disturbances. Lack of the medical and psychological

and social rehabilitation activities were the reason for developing severe complex traumatic stress syndrome that in most of cases resulted in somatic and psychosomatic disturbances.

**Table (1). Physical Methods of Torture.
All 65 persons - torture victims**

1.1.	Beating	63 persons	86%
	a) Systematically	56 persons	81%
	b) Once	7 persons	
1.2.	Electric Shock	12 persons	18%
	a) Sexual methods	1 person	
	b) With phalangs	9 persons	
	c) Under the ears	2 persons	
1.3.	Hanging	8 persons	12%
1.4.	Sexual torture	9 persons	14%
	a) Rape	7 persons	
	b) Stripe	2 persons	
1.5.	Tooth - medical torture	4 persons	6%
1.6.	Suffocation	10 persons	15%
	(By the gas - mask, bag)		
1.7.	Pharmacology torture	5 persons	7%
1.8.	Cauterization	3 persons	4%
	(Wounded with knife)		
1.9.	Burn	10 persons	15%
	(With cigarette)		
1.10.	"Telephone"	3 persons	4%
	"Phalange"		
	"Wearing with hear"		

**Table 2 (Psychological Methods of Torture)
All 65 persons - torture victims**

2.1.	Deprivation, Isolation	22 persons	34%
2.2.	Dark, less of oxygen, cold	41 persons	63%
2.3.	Rodents, insects in the cell	33 persons	51%
2.4.	Dirt and lack of the hygienic	47 persons	72%
2.5.	Agent in the cell	29 persons	45%
2.6.	Other torture victims in the cell	44 persons	68%
2.7.	Hearing the voices of someone's being tortured	33 persons	51%
2.8.	Attending on someone's torture fact	12 persons	18%
2.9.	Torture of the family members or other close persons	25 persons	38%
2.10.	Sleep deprivation	24 persons	37%
2.11.	Uncertainly waiting for torture	52 persons	80%
2.12.	Threaten	58 persons	89%
	a) to be raped	9 persons	
	b) regarding family	17 persons	
	c) regarding torture of the family member	19 persons	
	d) Other	13 persons	
2.13.	Humiliation, inhuman attitude, oppression	58 persons	89%
2.14.	False death	10 persons	15%
2.15.	Starvation and lack of t water	12 persons	18%
2.16.	Limitation of the natural needs of Human	16 persons	25%
2.17.	Non - real (collaboration as agent, signification, providing information)	36 persons	55%
2.18.	Lack of medical aid, inhuman	65 persons	100%

**Table 3 (Mental Disorders, ICD - 10)
All 65 persons - torture victims**

Diagnosis	Code	Person	%
1. PTSD	F 43.1.	9	14%
2. PTSD with Depression	F 43.1. F 43.22.	13	20%
3. PTSD with Somatoform Disorder	F 43 1. F 45	7	11%
4. PTSD with post - commocion syndrome	F 43 1. F 07.2.	10	15%
5. Chronic Changes of Personality after Torture	F 62.0.	15	23%
6. Emotional Personality Disorder with PTSD	F 60.3. F 43.1.	7	11%
7. Organic Personality Disorder with PTSD	F 07.0 F 43.1.	2	3%
8. PTSD with psychotic symptoms	F 43.1.?	2	3%

These mental disturbances were followed up with following physical syndromes: (see Table 4 – Physical Disturbances).

**Table 4 (Physical Disturbances)
All 65 persons - torture victims**

Disturbances	Percent
CNS Disturbances	49%
Cardio - Vascular Disturbances	29%
Respiratory System	8%
Allergic Disorders	17%
Tumor	15%
Abdominal System	18%
Uro - genital System	43%
Ocular System	29%
Otto - Laringology System	20%
Endocrine System	14%

It should be indicated that in most of cases there were revealed several psycho-somatic syndromes, such as Chronic Pain Syndrome (head, neck, back area) - 88 %, Blood pressure liability (85 %), CNS functional disturbances - 95 % and a specific one among women prisoners contingent - dysmenorrhea - 65 %.

In most cases scientific observations had been conducted among the victims of war or among political exiles - torture victims. The above-mentioned program revealed some peculiar features of the prisoners - victims of torture at prisons.

Proceeding from the above natural stress factors, characterizing prison's life, such as a loss of freedom, restriction of contacts with the outer world, play significant role in forming a complex trauma-stress syndrome which, taking into consideration ethno-cultural peculiarities (intolerant attitude to a woman's criminal records and hence, break of relations with the family, deprivation of children) become a source of even more depressive feelings and under 'special circumstances' (holidays, their children's birthdays and etc.) in most cases result in suicidal attitude of mind and even suicides.

At the same time the camp system characteristic of the post-soviet prisons, existence of operative service (network of informants, etc.), incorrect attitude towards prisoners (a parent - child relations, according to E. Bern) and a total distrust, a monotonous prison life extremely limits the autonomy of a person and facilitates the growth of aggression and inclination to conflicts among the prisoners.

Taking into consideration these prison peculiarities and proceeding from the complex stress factors, by the passage of time (together with the increase of the years in imprisonment) chronic changes of personality become very prominent and more obvious and result in: 1. Affective symptoms (permanent fear, anxiety, chronic depression with self-aggressive and suicide tendencies, psychic numbing). 2. Changes of personality with psychogenic autization and hostility, with high level of distrust. 3. Nightmares and severe sleep disturbances (stable insomnia at night and sleeping at a day-time), which, as proved by the analysis, is connected with torture cases - as prisoners were tortured mainly at night hours and they stayed awake for

many nights expecting to be tortured. It should also be noted here that this state (change of day and night) is often miscomprehended in prison and is considered a violation of a prison regime causing conflicts between prisoners and the prison administration. This is one of the examples of existence of ineffective social relations in a prison system resulting in miscomprehension of a psychological mechanism and an ineffective treatment and diagnostics.

Thus, permanent torture, inhuman treatment and incorrect attitude towards the prisoners – victims of torture - frequently result in a steady personal bitterness and extremely hostile attitude State and Justice, and state institutions in general becoming an image of “an enemy”. All the above create significant difficulties in the rehabilitation activities, for the transformation of the personality, causing difficulties in preventing the repeated criminal actions in prisons and in the society as well.

From this point of view the medical and psycho-social rehabilitation model implemented during this program - implying a multidisciplinary rehabilitation: individual and group psychotherapy, conflict resolution, family therapy, art-therapy (drawing and clay-shaping), social therapy, carried out by civilian multidisciplinary specialists (that increases the credibility factor and presents a necessary pre-condition for forming mutual confidence) - represents an innovative program in the post-soviet prisons. It also proves to be effective from the point of treatment, as well as from the viewpoint of forming an effective peaceful social environment in prisons and re-integration of prisoners with the society after their release.

Psychiatric Assistance and Human Rights

M.D. Professor, George Naneishvili

Society of Psychiatrists' of Georgia, Chairman.

Mental disease is a behavioral disorder caused by the breakdown of mental functions. The latter results in the disadaptation of a person in his / her usual social environment. One should not forget that a mental disease is one of the forms of a person's existence, his / her spiritual life. Hence, its consideration only from a narrow medical, or especially narrow biological viewpoint, will not show the whole profundity of this phenomenon. De-socialization, or a disorder of social relations, erroneous and distorted appraisal of oneself is the essence of a mental disorder.

Psychiatry, as a medical discipline, is characterized by the features that – unlike other disciplines – in a number of cases determine a considerable restriction of the rights of a patient as a person. Mental treatment is often based on a definite violence towards a patient. In particular, psychotropic, or sometimes other complicated manipulations, are carried out without a patient's consent. Despite the fact that patients, in the majority of cases, do not have any ability for making a conscious decision and giving consent to be treated (or they do not realize the need to be treated) the psychiatric treatment (in its essence) bear the elements of violence.

On the basis of these peculiarities did it become possible to apply mental treatment in the totalitarian countries as an instrument of repressions. Hence, civilized and democratic society should maximally ensure the protection of human rights of mentally retarded people - the law being its most effective warrant.

It should be noted that psychiatric legislation does not have a long history. In the Western countries intensive activities in this direction began only at the end of the 1970s, and in the post-totalitarian countries – at the end of 1990s. The lack of international expertise and difference in grounds in the field of the protection of the rights of patients complicate this process. Besides, there are considerable contradictions within the society itself.

Mention should be made of one very important circumstance – the attitude of the society towards psychiatry and mental patients in general. 'Stigmatization' of the mentally diseased is one of the greatest problems of modern psychiatry. Stigma that is attached to a person with mental problems by the society is the most severe one among other social restrictions. Mentally ill person is, as a rule, out of society: this disease deprives him / her of all human rights and condemns to an eternal isolation. More civilized the society, more secure the patient, more tolerant the people. The law protects the mentally diseased to remain in the society and maximally reveal their abilities and capabilities.

Parliament of Georgia passed the law "On Psychiatric Assistance" in 1995. It was one of the first laws on medicine in Georgia and the second (after Russia) law on psychiatric assistance in the countries of the former Soviet Union.

This law has been into practice for seven years and, as a result we may assume that such legislative statutes have not managed to become an instrument regulating the system of psychiatric assistance. A declarative character of the law creates difficulties while implementing it. By the year of 2002 a number of alterations were introduced to it. Due to the latter this law was adapted to the 'frame' laws having been in force in the sphere of health care since 1995 – for instance, "The Law on Health Care", "The Law on Medical Practice", "The Law on the Rights of a Patient" and others.

The Child and Violence

M.D. Professor, David Zurabashvili

Research Institute of Psychiatry, Director on Education

The issue on the problem of struggle against terrorism was raised at the World Assembly of consuls held in Mexico at the end of 2001.

I was invited to this Assembly as a children's psychiatrist and an expert in the field of aggressive behavior of juveniles. I made a report there and presented the opinion of Georgian psychiatrists on anti-social behavior, violence and terrorism – as the highest form of display of violence.

My object was not to present recommendations of an administrative-coercive type. On the contrary, I tackled the fact that greatest disproportions and difference of views in different spheres of the world civilization (whether scientific-technical or cultural achievements, traditions, education and world outlook) negatively affected children's and juveniles' spiritual dignity and may be considered as a main source of aggressive behavior.

Any form of aggressive behavior and any type of anti-social activities has its 'critical period' of origin, its own development rate and a type of formation.

Violence in the form of terrorism, its nature, the cause of origin and the ways of combating it is the most significant problem of the 21st century.

"It is a blow directed to the heart of the whole civilized society" – noted President George W. Bush in his speech dedicated to the New York tragedy, made on 11 October 2001. In his opinion a social nature of any terrorist act or violence is revealed in the extent of its effect on social interests. This blow can't be considered as only the economic damage; first of all, it is a moral strike against the civilized society.

As a children's psychiatrist, basing on the great experience in this sphere, I would like to state that anti-social, aggressive behavior, violence and terrorism, in the first instance, affects the spiritual dignities of our children. For its part it is connected with the following significant circumstance:

- the first and very simple fact is that that children grow up, become older and may reinforce the files of violators. It can be interpreted the following way: they don't have weapons yet, but as they grow older they have the ability to use them.

Let's remember the horrific crime having been recently committed in Germany. A school student murdered with a sub-machine-gun his several classmates and a teacher. Proceeding from the latter fact we can conclude that violence, on the one hand, is a product of a social life, and, on the other, it itself affects the social life – in the first instance, the formation of a personality and a social type of a child.

The main factor in the socialization of a child is his / her education (upbringing) and purposeful influence upon his consciousness and behavior. Upbringing (education) builds up a child's sets, principles, views and values, that are of a significant importance for his / her future social life. It is worth noting that upbringing is always biased. In some cases it is based on purposeful suggestions and stereotypes with regard to an artificially created image of an enemy.

Influence on the mental sphere of a juvenile, and a purposeful process of suggestion decreases the abilities of critical appraisal (that has not been built up yet) of a child. The facts being caused by the method of suggestion assume the nature of internal sets. The latter do not fall under correction and comprehension – the confidence is being created that comes to fanaticism. These are the first steps (traits) of a violator in a child.

I am a physician and do not deal with the politics. But I would like to remind you that there are countries where a long time ago there were created special camps where children are trained and brought up applying the above methods. The suggested confidence and fanaticism of the inmates of these camps are interwoven with hostility to people with different world outlooks and disrespect of their social and moral norms.

To my mind the latter fact is indicative of a connection between the violator and a personality of a child. Thus, it is necessary to study the peculiarities of aggression of a child, how it is related to a concrete situation that might result in anti-social, terrorist activities. Consideration of this mechanism enables us to gain an understanding of the causes of an aggressive, anti-social behavior of a child and answer the following questions – why does a juvenile violate the social norms? Why does he / she neglect established principles of life.

We think that first of all it is necessary:

- to opportunely correct the views, values and aspirations of a juvenile;
- to build up healthy a social status of a child in the sphere of correct views and moral duties;

The origin of illegal behavior of those juveniles - that lived under socially unstable conditions, that were brought up during prolonged civil cataclysms and who have lost the value of their political and religious ideals – is determined by all the above-mentioned factors.

Attitudes, Views and personal positions are formed in the childhood and this period should not be missed.

Finally, I would like to interpret E. Hemingway's – a great American writer - words in my own way: "For whom the bell tolls?" – it tolls for our children who do not have the arms yet. It is our obligation to convince them that they should not do it.

“TOGETHER AGAINST TORTURE”

DECLARATION

26 June 2002, Tbilisi

Appeal

To the President and Parliament of Georgia

on the necessity to introduce amendments - corresponding to the ‘UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment’ - to the legislation and normative statutes of Georgia.

It has been elaborated by the organizers of the Conference “Together Against Torture”:

- 1. The Rehabilitation Center for Torture Victims “Empathy”**
- 2. Former Political Prisoners for Human Rights**
- 3. Georgian Psychiatrists’ Society**
- 4. The Scientific-Research Institute of Psychiatry**
- 5. The Ombudsman’s Office of Georgia**

It is submitted to the consideration and approval of the participants of the Conference “Together Against Torture”

26 June 2002, Tbilisi

PREAMBLE

Torture leaves indelible traces upon a person. Physical after-effects of torture might be eliminated, but not always; as for the spiritual wounds, they constantly follow a torture victim.

The results of study of the atrocities of World War II, in particular, research conducted on the victims of torture subjected to it in the concentration camps and the deported people became indicative of the fact that torture and inhuman and degrading treatment entail only suppression and destruction of a personality, and in the majority of cases – ‘the complete collapse’ of his / her life (V.Frankl, “A Psychotherapist in a Concentration Camp”).

Proceeding from the above, the civilized society of the world came to the conclusion that every person has the right to be protected against torture and other inhuman and degrading treatment and punishment. This provision stipulates no exceptional circumstances provided for in ‘General Declaration on Human Rights’ and ‘International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’ (in particular, Article 2, Paragraph 2 of the Convention: “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture”).

Pursuant to the above Convention the definition of “torture” is the following:

Part 1.

Article 1.

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.

Georgia acceded to this Convention on 22 September 1994, but unfortunately, relevant alterations have not been introduced to the legislation of Georgia yet; the latter fact impedes the fight against torture in Georgia and, from our standpoint, requires considerable joint efforts on the part of the government and non-government structures, professional organizations (especially those of physicians and lawyers), international organizations, mass media and the whole society.

We,

acceding on the 26th of June to the world movement against torture (International Day in Support of Victims of Torture), whose motto is “Together against Torture”;

being guided by the ‘General Declaration on Human Rights’ - Article 5 (adopted and recognized by the UN General Assembly, Resolution 217 A (III), 10 December, 1948);

recognizing the European Convention ‘On the Protection of Human Rights and Basic Liberties’ – Article 3: Prohibition of Torture (Tome, 4 November 1950);

recognizing the ‘European Convention on Eradication of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’ (Turin, 18.10.1961);

being guided by the ‘UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment’ (adopted by the UN General Assembly (resolution 39/46) on 10 December 1984 and put into force on 26 June 1987;

being guided by Article 17 of Part 2 of the Constitution of Georgia – ‘On Human Rights’;

welcoming the statement of the President of Georgia of 21 December 2001 on the declaration of Georgia as a territory free from torture – the latter was the President’s response to the initiative of the NGOs of Georgia;

sharing ‘The Final Remarks – concerning the second periodic report of Georgia - of the Supreme Commissariat of the UN Human Rights Protection’: Georgia. 09/04/2002 (The Committee for Human Rights Protection, the 74th Session, 18 March – 5 April, 2002).

recognizing the necessity to improve the situation in Georgia in the sphere of practice and prevention of torture;

DECLARE AND CALL UPON THE GOVERNMENT OF GEORGIA TO IMMEDIATELY TAKE CONCRETE MEASURES ON THE ABOLITION OF ACTS OF TORTURE IN GEORGIA

DECLARATION

1. Pursuant to Articles 1, 2 and 4 of the ‘UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment’ it is necessary to expedite the introduction of a special article to the Criminal Code of Georgia – which will provide for the definition of ‘torture’ and the issue on relevant criminal liability in case of violating the Convention provisions; ‘torture’ will be defined as an extremely severe crime committed by the state against a person.

2. Pursuant to Article 10 of the present Convention, in order to prevent torture it is necessary that the State shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. The State shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.’

3. Pursuant to Article 11 of the above Convention it is necessary that the State shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention

or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

4. Immediately after the detention of a person he / she shall have access to a physician and an attorney (independent experts among them).

5. Proceeding from the principles of the European Court there should be created a fair system ensuring justice that provides for the vertical relations between the state and a person, the latter having an advantage; the latter fact stipulates the responsibility of the state to prove its innocence in case an act of torture occurs.

6. Pursuant to Article 14 of the Convention the state is obliged to ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In view of the above it is necessary to establish a compensation and rehabilitation fund for the torture victims.

Undersigned:

**1. The Rehabilitation Center for Torture Victims ‘Empathy
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**4. The Scientific-Research Institute of Psychiatry
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**5. The Ombudsman’s Office of Georgia
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