

“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
President /Mariam Jishkariani/

Address: 10, Asatiani St., tel.: 38 74 67; 8 99 51 63 00;

E-mail: mjishkariani@yahoo.com

2. Former Political Prisoners for Human Rights
Chairperson /Nana Kakabadze/

Address: 40, Rustaveli St.

3. Georgian Psychiatrists’ Society
Secretary General /Zurab Beraya/

Address: 10, Asatiani St.

4. The Scientific-Research Institute of Psychiatry
/Giorgi Naneishvili/

Address: 10, Asatiani St.

5. The Ombudsman’s Office of Georgia
The Ombudsman of Georgia /Nana Devdariani/

Address: 11, Machabeli St.