



THE ASIA PACIFIC FORUM
OF NATIONAL HUMAN RIGHTS INSTITUTIONS

... a partnership for human rights in our region

ABN 98 099 972 997

QUESTIONNAIRE

Advisory Council of Jurists - Terms of Reference on Torture Background Paper on Torture

Please complete the questionnaire and send all responses by e-mail to:

- Stephen Clark – stephenclark@asiapacificforum.net; and
- Jessica Wyndham – jessicawyndham@asiapacificforum.net

Responses to this questionnaire will be used in the Background Paper on Torture which will be distributed to the Advisory Council of Jurists.

We would be grateful to receive your response by or before **10 December 2004**. Thank you in advance for your time and contribution.

Information about the Advisory Council of Jurists and the terms of reference on torture is available at <http://www.asiapacificforum.net/jurists/>

Activities of National Human Rights Institutions:

1. Has your Commission received complaints from individuals or groups claiming torture? If so, how many complaints and please describe some of the most important cases and the role of your Commission in resolving the complaints.
2. Has your Commission conducted research on the issue of torture? If so, please provide the results of this research.
3. Has your Commission undertaken awareness and education campaigns relating to torture? If so, please provide details of these campaigns, identify the individuals or groups who have been trained and estimate how many people have been trained.
4. Has your Commission monitored the conditions in and visited centres of detention to assess the conditions in which detainees are kept and the treatment they receive? If so, please provide details of any findings.
5. Has your Commission intervened in court proceedings on the issue of torture? If so, please provide details of the cases, the role of the Commission and the outcome of the cases. Please provide copies of any submissions and court decisions.
6. Has your Commission addressed the issue of torture in its annual reports? If so, please provide a copy of the relevant sections.
7. If your government has ratified the International Covenant on Civil and Political Rights, Convention Against Torture and/or Convention on the Rights of the

Child, has your Commission been approached by the government to contribute to the periodic reports to the relevant Committees, or has your Commission provided a shadow report to the relevant Committees? If so, please provide copies of the sections relevant to the issue of torture.

8. Does your Commission have regional offices and are these offices involved in torture issues? If so, in what way?
9. Does your Commission work in collaboration with civil society including the private sector, government or UN agencies or multilateral donors such as the World Bank on the issue of torture? If so, in what way?
10. Has your Commission identified laws/policies/practices in your country that impact on torture?
11. Has your Commission proposed legislation relating to torture, or helped develop a national policy?

Documentation

Please send the following documentation to the APF Secretariat by e-mail or by mail:

Constitutional provisions relating to:

- torture, including references to other ill-treatment and refoulement or extradition; and
- relevance of international law in the domestic jurisdiction.

Relevant legislation referring to:

- torture and other forms of ill-treatment;
- the treatment of individuals in all forms of detention; and
- legal and other safeguards aimed at the prevention of torture.

NGO Reports

- Reports by local, national or regional non-governmental organisations on torture within your country.

Issues raised in the Terms of Reference

1. Do the police and other disciplinary forces in your country currently follow set minimum standards of interrogation?

If so, are you able to provide a copy of these minimum standards?

If not, please provide any information you have about these minimum standards including:

- who developed them?
- on the basis of what documentation?
- when were they developed?
- when were they last revised?

- do the staff of the disciplinary services receive specific training in interrogation methods?
 - if so, how often and who conducts the training?

Please provide any information about complaints received by individuals or groups about the methods of interrogation used by the disciplinary forces in your country.

2. Do your national courts recognise customary international law as a source of law to be complied with? Include any cases that refer to the rule of customary international law prohibiting torture.
3. Does your constitution or national law allow for any derogation from the prohibition on torture and other forms of ill-treatment? If so, please provide the relevant sections.
4. Set out any legislation, rules or practices of courts in admitting or rejecting any statement that is made by an accused as a result of torture or any other form of ill-treatment.
5. Describe the remedies available and provided in practice to victims of torture and other forms of ill-treatment, including complaints systems, compensation mechanisms and medical rehabilitation.
6. Provide information about the protections afforded to persons being forcibly returned to a country in which they may face torture or other forms of ill-treatment.
7. Have the national courts been asked to consider any cases of alleged torture that have taken place outside the territory of your country and not involving citizens of your country? If so, please describe the position of national courts in exercising their jurisdiction in such cases. For example, General X was a Balkan military officer accused of torturing civilians during the regional conflict. He is currently holidaying in your country. What would the position of your national courts be if they were asked to try him for torture?
8. Have the national courts considered the extent of their jurisdiction over international intervention forces? If so, please provide details of the cases and copies of the judgments, if possible.
9. Describe the nature and extent of procedures and safeguards, both legal and practical, in place to protect against torture by non-state actors.

This is the end of the questionnaire. Thank you for taking the time to respond.