

**HUMAN RIGHTS DOCUMENTATION  
MANUAL SERIES:**

**DOCUMENTING TORTURE AND OTHER FORMS OF  
ILL-TREATMENT IN BURMA**

**NETWORK FOR HUMAN RIGHTS DOCUMENTATION – BURMA**

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## ACKNOWLEDGEMENTS

This manual is a product of the Network for Human Rights Documentation – Burma (ND-Burma), a collaborative group of 12 member organizations documenting human rights violations committed in Burma. ND-Burma is developing a human rights database that will serve to centralize information collected by Burma human rights groups through interviews and other forms of fact-finding. ND-Burma embarked on this project in order to enhance the analysis of trends of human rights violations, to engage in advocacy to prevent the occurrence of human rights violations, and eventually to assist in the development of transitional justice measures in Burma. To these ends, this manual is part of a series of manuals designed to provide guidelines on how to document violations in Burma in accordance with international human rights law and based on the experience of ND-Burma members.

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The primary author of this manual is Amy Alexander. Members of ND-Burma provided extensive content supervision and editorial oversight to ensure the accuracy, completeness, and cohesion of this manual.

It is the sincere hope of ND-Burma that this manual will serve as an effective tool for human rights defenders of Burma, who are tirelessly working towards a day when the human rights of all the peoples of Burma are realized.

## PREFACE

This manual is focused on torture and other forms of ill-treatment. It provides information on how to document violations, perform interviews, analyze whether there has been a breach of international law, and increase advocacy on these issues.

**Chapter 1: Documentation:** Chapter 1 sets out the relevant international law concerning torture and other forms of ill-treatment and provides guidelines on possible ways to document these violations. It then provides information about the historical and political context of torture and other forms of ill-treatment in Burma. Chapter 1 also provides a sample good and bad interview based on a hypothetical fact pattern involving torture and other forms of ill-treatment.

**Chapter 2: Analysis:** Chapter 2 discusses how to assess the evidence in order to establish a violation of international law. It discusses how to identify trends and patterns that will strengthen the evidence of violations. Chapter 2 also includes information on establishing serious crimes under international law such as genocide and crimes against humanity.

**Chapter 3: Advocacy:** Chapter 3 includes information on how to present evidence of human rights violations to international actors and bodies. This Chapter focuses on the role of the United Nations and provides an overview of the mechanisms that are available to deal with violations of torture and other forms of ill-treatment.

This manual covers only violations concerning torture and other forms of ill-treatment. It does not provide information about other abuses that may occur in conjunction with torture and other forms of ill-treatment, such as killings, arbitrary arrests, or disappearances. These violations are dealt with in the other manuals of this series.

### *About ND-Burma*

ND-Burma formed in 2003 in order to provide a way for Burma human rights organizations to collaborate on the human rights documentation process. The 12 ND-Burma member organizations seek to collectively use the truth of what communities in Burma have endured to challenge the regime's power through present-day advocacy as well as prepare for justice and accountability measures in a potential transition. ND-Burma conducts fieldwork trainings; coordinates members' input into a common database using Martus, an open-source software developed by Benetech; and engages in joint-advocacy campaigns. When possible, ND-Burma also collaborates with other human rights organizations in all aspects of its work. Membership in ND-Burma, as of September 2008, includes the following organizations:

- All Arakan Student and Youth Congress (AASYC)
- Assistance Association for Political Prisoners (AAPP)
- Burma Issues
- EarthRights International (ERI)
- Human Rights Documentation Unit (HRDU)
- Human Rights Education Institute of Burma (HREIB)
- Human Rights Foundation of Monland (HURFOM)
- Kachin Women's Association of Thailand (KWAT)
- Lahu Women's Organization (LWO)
- Palaung Women's Organization (PWO)
- Palaung Youth Network Group (PYNG)
- Yoma-3

The range of human rights violations in Burma is extensive, and each ND-Burma member focuses on certain violations that are particularly relevant to their mission. One of the first tasks in developing a framework for collaboration among members was to develop a “controlled vocabulary,” listing the categories of human rights violations on which the network would focus. Based on that list, ND-Burma has developed this documentation manual series consisting of 13 violation-specific manuals and a general documentation manual:

1. Killings & Disappearance
2. Arbitrary Arrest & Detention
3. Recruitment & Use of Child Soldiers
4. Forced Relocation
5. Rape & Other Forms of Sexual Violence
6. Torture & Other Forms of Ill-Treatment
7. Forced Labor
8. Obstruction of Freedom of Movement
9. Violations of Property Rights
10. Forced Marriage
11. Forced Prostitution
12. Human Trafficking
13. Obstruction of Freedoms of Expression and Assembly
14. General Documentation

Additional manuals may be developed if ND-Burma expands the common vocabulary list.

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## CHAPTER 1: DOCUMENTATION – ESTABLISHING THE VIOLATION

### I. Violations of Human Rights: Torture and Other Forms of Ill-Treatment

For a human rights abuse to be a violation under international human rights law, it is necessary to satisfy the essential key elements of a violation. Elements are the specific criteria or set of circumstances that must be present in order for an action to be against the law. The elements of human rights violations are derived from international human rights legal instruments. Before beginning to document any human rights violation, it is helpful to have a clear understanding of the elements necessary in order to establish a violation. This chapter explains the elements that are required in order to demonstrate a violation of torture and other forms of ill-treatment.

### II. Defining Torture

#### A. What are the elements of torture under international law?

In order to document torture as a human rights violation, evidence of *four elements* must be present:<sup>1</sup>

1. Severe pain or suffering, whether physical or mental
2. Inflicted intentionally
3. For a particular purpose
4. State action

#### B. What qualifies as “severe” pain or suffering?

In order to determine whether the severity of a victim’s pain and suffering rises to the level of torture, it is necessary to consider the personal characteristics of the victim and the circumstances of the case. For example, a person’s sex, age, religious or cultural beliefs, health, the duration or type of abusive conduct, or the context in which it takes place can greatly influence the degree of suffering a victim may experience.\*

#### C. What “purposes” are considered illegal?

There is no limit on the types of purposes that may qualify as prohibited. Any mistreatment that takes place for a purpose that does not conform to internationally accepted standards and practices is likely to be considered prohibited. For example, prohibited purposes of torture include:<sup>2</sup>

- To obtain information or a confession
- To punish
- To intimidate or as coercion
- For any discriminatory reason

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\* Because of the subjective nature of torture, it may be difficult to determine what specific actions qualify as torture. It is important to remember that even where pain and suffering is not “severe” enough to raise to the level of torture, it may still be significant enough to qualify as ill-treatment, which is also prohibited under international law. See *Chapter 1, Part II: Defining Other Forms of Ill-Treatment*.

Also, it is **not** necessary that a prohibited purpose be the sole reason for the mistreatment. A prohibited purpose must simply be part of the motivation for the actions.

#### D. What are some examples of torture?

The definition of torture depends largely on the victim’s personal experience of pain and suffering. Because the experience of pain and suffering is subjective, there is no limit on what types of actions may qualify as torture. Certain forms of abuse, however, are more likely to rise to the level of torture than others. For example, the following acts, individually or in combination with other forms of ill-treatment, are likely to amount to torture:<sup>3</sup>

- Brutal beatings that inflict wounds or injuries
- Being tied into contorted positions for prolonged periods
- Being burned with cigarettes or other instruments
- Electric shock treatment
- Rape or other sexual violence<sup>†</sup>
- Near asphyxiation
- Mock executions or amputations
- Prolonged denial of basic necessities, such as sleep, food, medical assistance, etc.
- Solitary confinement, particularly if combined with incommunicado detention
- Extremely poor detention conditions

#### E. What is state action?

State action is necessary for torture and other forms of ill-treatment to be a violation under international human rights law. State refers to “the national entity based in the capital city that attempts to regulate and reorder populations and resources throughout an internationally-recognized territory.”<sup>4</sup> State action, therefore, means that this entity was in some way responsible for or involved in the violation. For example, if torture and other forms of ill-treatment was perpetrated by a public official, the state action requirement would be satisfied.<sup>‡</sup> State action also includes instances when a violation takes place with official knowledge or consent, or when the state fails to prevent or adequately respond to the violation.<sup>§</sup> For example, a state may be in violation of international law when private perpetrators of torture or other forms of ill-treatment go unpunished.

#### Perpetrators: Non-State Actors



Non-state actors (NSA) are individuals or groups that are not part of the state but that operate with state-like authority. They may include organized civilians, resistance groups, private corporations, local militias, and others performing state-like functions. NSAs should be held accountable for their actions under domestic law. However, NSAs may be held accountable under international law if state action is not required to prove a violation or if they commit a violation that can be categorized as genocide or crimes against humanity. To create a complete human rights record, it is good practice to document all violations regardless of whether the perpetrator is a state or non-state actor.

<sup>†</sup> Note that rape and other forms of sexual violence is in and of itself a violation of international human rights law. This topic is dealt with more in-depth in the manual in this series entitled, “Documenting Rape and Other Forms of Sexual Violence in Burma.”

<sup>‡</sup> Public officials may include members of any organization operating with state authority, such as members of law enforcement agencies, paramilitary groups, and death squads.

<sup>§</sup> Note that the element of state action is not required to prove genocide or crimes against humanity. For more information on proving genocide or crimes against humanity, see Chapter 2.



### III. Defining Ill-Treatment

#### A. What are the elements of ill-treatment under international law?

In order to document ill-treatment as a human rights violation, evidence of *three elements* must be present:

1. Significant pain or suffering, whether physical or mental\*\*
2. Inflicted intentionally
3. State action

Note that the only difference between a violation of ill-treatment and torture is a lesser requisite level of pain or suffering and the lack of a prohibited purpose.

#### Vocabulary Alert: Ill-Treatment



The Convention against Torture prohibits not only torture but also “other cruel, inhuman or degrading treatment or punishment.” However, it is not necessary to separate particular forms of ill-treatment into distinct categories. The concept of ill-treatment is meant to be fluid and provide the widest possible protection against abuses.

### IV. Asking the Critical Questions

Asking questions and interviewing is vital to gathering information about human rights violations. The usefulness of an interview will depend largely on the experience and ability of the fact-finder to ask meaningful and substantive questions. Knowing and understanding the essential elements of a violation should help a fact-finder develop critical questions in order to establish a violation of international law. The elements of a violation may provide a useful framework to ensure necessary information is collected.

#### 1. *Establishing severe or significant pain or suffering*<sup>††</sup>

- Who was tortured or ill-treated?
- What happened?
- What effects did the torture have on the victim?
- When did the incident occur?
- Where did the incident occur? Where is the victim now?
- How was the person tortured or ill-treated? For how long?
- How do you know what happened?

#### 2. *Establishing the torture or ill-treatment was inflicted intentionally*

- What led to the incident?
- What was the reason given for the torture or ill-treatment?
- How was the torture or ill-treatment implemented?
- How do you know this information?

#### Interview Tips: Do's



- Be sure to address issues of security and confidentiality.
- Start with background and work up to the more sensitive topics.
- Be a good listener. Let the witness tell his/her account.
- Be sensitive to emotional reactions.
- Be alert for inconsistencies.
- Be patient.

\*\* Ill-treatment includes all actions that are not severe enough to rise to the level of torture. Like torture, the level of pain or suffering is evaluated on subjectively and depends on the particular circumstances of the case.

†† To prove a violation of torture, *severe* suffering or pain is required. Other forms of ill-treatment only require a showing of *significant* suffering or pain.

### 3. *Establishing a prohibited purpose*<sup>##</sup>

- Why was the torture or ill-treatment carried out?
- What information was being sought?
- What type of action was the perpetrator hoping for from the victim?
- How do you know this information?

### 4. *Establishing state action*

- Who carried out the incident? Who ordered it? Who knew about it? Who assisted in it?
- Did you report the incident? Why or why not?
- What did the state do to prevent or respond to the incident?
- How do you know this information?

#### Interview Tips: Don'ts



- Don't be judgmental or express opinions.
- Avoid leading questions.
- Don't refer to other witnesses.
- Don't make promises that you can't keep.
- Avoid aggressive or interrogation style questioning.
- Avoid influencing the story.

## V. Practicing Documentation

Finding the information necessary to establish a violation of international law takes time and practice. The essential elements of a violation are not always readily apparent. A fact-finder must be able to elicit information about human rights abuses and properly identify the essential elements of a violation from the information collected.

To practice identifying the elements of a violation, this section provides a fact pattern containing evidence of a typical violation of torture and other forms of ill-treatment in the Burma context. Based on this fact pattern, this section also offers examples of good and bad interviewing techniques. For more information on interviewing and tips on conducting effective fact-finding, please see the manual in this series entitled, “Documenting Human Rights Violations in Burma.”

### A. Understanding the Context

Before beginning any fact-finding mission or conducting an interview to uncover human rights information, it is important to understand the historical and political context in which violations are taking place. Understanding the context may help the fact-finder to develop meaningful questions and gain insight into the current situation. Even for experienced fact-finders, it can be helpful to review background information before starting a fact-finding mission. Below is some background information on the historical and political context of torture and other forms of ill-treatment in Burma.



#### Historical and Political Context of Torture and Other Forms of Ill-Treatment in Burma

Since 1962, when General Ne Win led a military coup to gain control over Burma, successive military regimes have ruled the country through tactics of intimidation and unspeakable brutality. Torture and other forms of ill-treatment have occurred on a persistent and widespread basis throughout Burma since the military regime took control. Nonviolent

<sup>##</sup> This element is only necessary to show a violation of torture.

political opponents, ethnic villagers, religious leaders, and anyone suspected of opposing the regime have all fallen victim to practices of severe torture and other forms of ill-treatment perpetrated largely by agents of Burma's military rulers. Although armed opposition groups in Burma have also committed violations over the years, reports of such abuses are less common. Under military rule, thousands of people have been maimed, physically impaired, psychologically traumatized, and killed as the result of torture or other forms of ill-treatment perpetrated by the regime.<sup>5</sup>

Torture is frequently employed by agents of the military regime in order to extract false confessions, to gather information, particularly about political or ethnic opposition groups, or to punish suspected dissidents or their supporters. It is also carried out as a form of discriminatory persecution against ethnic villagers and minority religious groups. Members of Burma's military have also used torture in order to extort money, food, property, and other items from civilians.<sup>6</sup>

Torture and other forms of ill-treatment largely occur in Burma's many interrogation centers and detention facilities. Victims are typically arrested, often without being informed of the reasons for the arrest, and taken directly to interrogation centers where they are questioned, threatened and tortured. The interrogation process can go on for days, weeks, or months. Following the interrogation process, detainees are typically sent to larger detention facilities where they may be subjected to additional torture and other forms of ill-treatment.<sup>7</sup> Torture also frequently takes place during military raids of villages, particularly in the ethnic areas and conflict zones. Villagers are constantly at risk of torture by patrolling military battalions that arbitrarily commit a range of abuses against villagers.<sup>8</sup>

Torture methods in Burma take varying forms. Severe beatings are common. Reports include being "punched, slapped, kneed and beaten with a variety of implements." Other forms of torture, particularly for detainees include deprivation of "food, water, sleep, light, and the use of the toilet."<sup>9</sup> It is also common for people to be tied up into painful, contorted positions and left for long periods of time. People have been burned with cigarettes, hot wax, lighters, and electric rods, shocked with electricity, and suffocated. The regime also employs special techniques to inflict pain such as squeezing hard objects between a victim's fingers or ripping off strips of flesh from a victim's shins by using iron or wooden bars.<sup>10</sup> Sexual torture, including rape, occurs on a regular basis. Evidence of hundreds, if not thousands, of incidents of sexual violence have been collected and documented throughout the years.<sup>11</sup> Many incidents involve gang-rape situations where a victim is raped several consecutive times by several different perpetrators.<sup>12</sup> Others have been sexually mutilated.<sup>13</sup>

Psychological torture is also widely practiced in Burma, particularly on detainees. Agents of the military regime often humiliate victims by forcing them to perform ridiculous acts, like mimicking a motorcycle or an airplane. Threats of beatings, rape, execution, solitary confinement, refusing family visits, and false promises of release serve to further terrorize and emotionally traumatize detainees. Conditions are so terrible in detention that detention itself is considered to be a form of torture. Over the years, hundreds of detainees and former detainees have died due to the conditions of their imprisonment.<sup>14</sup>

Reports of torture and other forms of ill-treatment are regularly disregarded or outright denied by regime officials. Victims meanwhile are left to suffer the serious medical and psychological consequences of their experiences often without access to proper medical treatment or counseling.<sup>15</sup>

## B. Fact Pattern

Below is a fact pattern of a typical violation of torture and other forms of ill-treatment in the Burma context. This fact pattern may be useful to practice identifying the key elements of a violation. Remember, in order to establish a violation of torture and other forms of ill-treatment in accordance with international human rights standards, there must be:

- Severe or significant pain or suffering, whether physical or mental<sup>§§</sup>
- Inflicted intentionally
- For a particular purpose<sup>\*\*\*</sup>
- State action

### Fact Pattern: Torture and Other Forms of Ill-Treatment<sup>†††</sup>



Sai Aung is a young ethnic Shan. One afternoon, he went to a teashop near his home where he met his friend. As they drank tea, they started to discuss problems of the Shan people and the politics of the Shan State Army (SSA), an ethnic opposition group. At one point, Sai Aung exclaimed rather loudly, “If we want to escape the oppression of the military rules, we need to all support the SSA. That is the only way.” After they finished their tea, Sai Aung left his friend and started walking to his house. Before he got home, two men in civilian clothes approached him. They said they were with the military intelligence and they asked Sai Aung to follow them. Having no choice, he followed them to a car that brought him to a military camp located on the edge of his village.

The two men brought Sai Aung into a small room where three uniformed soldiers were waiting. One of the officers stood up and said, “We’ve heard that you have a lot of opinions. Maybe you’d like to share them with us now.” Sai Aung didn’t say anything. The officer came closer to Sai Aung and said, “You didn’t want to keep quiet before but now you don’t have anything to say.” The officer slapped Sai Aung hard across the mouth then kicked him in the stomach. The officer then said, “You must learn how dangerous your mouth can be. Let’s hear you tell us how dangerous your mouth is.” The officer then forced Sai Aung to repeat for one hour that his mouth was dangerous and he would not speak badly about the government again.

After about one hour, Sai Aung was thrown into a small, empty cell. There was nothing in the cell. Eventually two soldiers and one officer came to the cell and began interrogating Sai Aung. The officer questioned him repeatedly about the SSA, asking him how he was involved in their activities and where the SSA was stationed. When Sai Aung could not answer the questions, the two soldiers beat him. They hit him repeatedly with the butt of their guns. They also punched him in his face. After about two hours of the interrogation, Sai Aung fell unconscious from the beatings.

When Sai Aung awoke, he was still locked in the cell and he bleeding badly from his head. He looked around the cell and noticed a plastic tub filled with dirty water. After a short time,

<sup>§§</sup> To prove a violation of torture, *severe* suffering or pain is required. Other forms of ill-treatment only require a showing of *significant* suffering or pain.

<sup>\*\*\*</sup> This element is only necessary to show a violation of torture.

<sup>†††</sup> Please note that this hypothetical fact pattern was developed from a variety of people’s experiences for the purposes of this manual and does not reflect the experience of any one person or of one particular event.

the two soldiers and officer returned. The two soldiers picked Sai Aung up off the floor and dragged him over to the tub. The officer began asking him questions again about the SSA. When he could not answer, the two soldiers forced his head into the tub of water for several minutes. When they pulled him up, the officer repeatedly yelled at him “What do you know of the SSA?” The soldiers then forced his head under the water repeatedly. Sai Aung again fell unconscious.

Sai Aung remained locked up in the military camp. Every morning and afternoon, the soldiers and officer interrogated him about the SSA and beat him severely. After about 20 days, the officer told Sai Aung that if he ever spoke about the SSA again, they would kill him. Then they forced him to sign a statement agreeing to never speak about the SSA and released him.

After this experience, Sai Aung fled to Thailand. He has a deep scar on his head from where he was beaten with the rifle. He experiences frequent headaches and occasionally passes out without warning. In addition, he has difficulty sleeping at night and suffers from intense nightmares.

### C. Sample Interviews

Interviewing is the principal method of fact-finding primarily because people hold the most amount of information about an event. Because interviewing is fundamental to the fact-finding process, developing excellent interviewing skills is a key to uncovering comprehensive details of human rights abuses. Below are two sample interviews, which are based on the above fact pattern. The first is an example of a bad interview and the second is an example of a good interview. Following each sample is an analysis of the interview.

#### 1. Sample Interview: Bad

So you were tortured in Burma, right?

*Sai Aung:* Yes. That’s right.

Did they beat you really badly?

*Sai Aung:* Yes. You can see the scar on my head that was from the beatings.

It was a government official that tortured you, right?

*Sai Aung:* I guess so. I was taken to a military camp and tortured by soldiers there.

And you were tortured for supporting the SSA?

*Sai Aung:* Yes.

#### Why is this interview bad?



This is a bad interview for several reasons. **First**, it is too short, and the questions do not accomplish the main goal of the interview, which is to document elements necessary to show a violation. There are not enough questions to get a detailed account of what happened. Follow-up questions are essential to develop a full picture of the events.

**Second**, most of these questions are “leading” questions. This means that they suggest to Sai Aung how he should answer. If he answers simply “yes” or “no,” he may be leaving out important details and the interviewer will miss important pieces of information. Also, Sai Aung may be less likely to speak freely and more likely to give answers that he believes the interviewer wants to hear.

**Third**, this interview focuses only on the violations the interviewer initially suspected, and does not ask questions that would provide evidence of other violations. Incidents of torture and other forms of ill-treatment, like this example, often occur in addition to other human rights abuses. Conducting a detailed interview may provide evidence of numerous crimes, such as a violation of arbitrary arrest and detention.

**Finally**, this interview does not provide any information to corroborate Sai Aung’s account. Asking Sai Aung if there were witnesses or other evidence available, such as a doctor’s examination report, to check his story is an important part of good documentation.

## 2. *Sample Interview: Good*

Sai Aung, can you tell me why you left Burma?

*Sai Aung:* I left Burma because I was scared of the military. I was arrested and tortured by the military and I am afraid it could happen again. I still have nightmares about my time in Burma.

What happened when you were tortured?

*Sai Aung:* They beat me very badly. They hit me with the butts of their guns, punched me in the head, and kicked me in the stomach. They also dunked me under water until I passed out. I was beaten everyday for about 20 days. I passed out many times because of the beatings.

Who tortured you?

*Sai Aung:* Members of the military.

How do you know they were members of the military?

*Sai Aung:* Because they were wearing military uniforms. I am also familiar with the military camp because it is not far from my village. The battalion that is stationed there is #123.

Where did the torture take place?

*Sai Aung:* It all happened after I was brought to the military camp. The worst torture happened when I first arrived during the interrogation.

What else happen to you in detention?

*Sai Aung:* Well, when I first arrived, they interrogated me for a long time. They kept asking me about the Shan State Army. When I couldn’t answer their questions, they beat me. They forced me to repeat over and over, “my mouth gets me in trouble. I will never criticize the government again.” I had to do this for over an hour. The whole time, the officer and soldiers were laughing at me. It was humiliating.

Why do you think this happened to you?

*Sai Aung:* They didn't tell me why I was arrested and they didn't formally charge me with any crime. However, I was arrested right after I had a discussion with my friend in the teashop about how bad the military regime is and how the SSA would save the Shan people. I think someone must have overheard me because I was arrested on the way home from the teashop. Also, during the interrogation, the officer said that I had a lot of opinions and my mouth was dangerous. They also kept asking me about the SSA. I've also heard of other people being tortured and even killed for supporting the SSA.

Did you report this incident to the authorities?

*Sai Aung:* No. There is nobody to report this to. The military have orders from higher authorities to arrest anyone suspected of helping opposition groups like the SSA. I know people have been killed as suspected SSA supporters. If I reported what happened, I might suffer even worse consequences.

Did you suffer any injuries from your time in detention?

*Sai Aung:* Yes. Because they hit me repeatedly in the head, particularly with their guns, I get really bad headaches. I also have a scar on the back of my head. Sometimes I pass out for no reason. I also have horrible nightmares.

Did you see a doctor after being released?

*Sai Aung:* Yes. When I came to Thailand, I went to a doctor for my headaches. He gave me some medication to ease the pain.

Do you have a copy of the medical reports?

*Sai Aung:* I can get a copy if you think it would be helpful.

That would be great. Also, is there anyone else I could talk to who knows what happened to you?

*Sai Aung:* My friend, Sai Sai, knows what happened to me. He was the one whom I met at the teashop on the day I was arrested. He also saw me after I was released from detention. I could give you his contact information.

Okay. And is there anything else you would like to add or do you have any questions for me?

*Sai Aung:* Just that it was terrible. I still have nightmares about my experience.

Thank you so much for sharing your experience with me. I know it must be very difficult to talk about. If I need to speak with you again, how can I contact you?

*Sai Aung:* I am hoping to be resettled but right now I am living here in Thailand. You can contact me anytime.

### **Why is this interview good?**



This interview is good because Sai Aung has told his story. The initial questions were open-ended and there were follow-up questions. His answers help document each

element to establish a violation. For example, Sai Aung has provided the following information about the torture and ill-treatment:

**First**, Sai Aung provided information to establish severe or at least significant pain or suffering. He said he was repeatedly beaten, dunked under water until he lost consciousness, and forced to perform humiliating tasks. Records from his doctor of his injuries from this incident will help to verify his account.

**Second**, Sai Aung provided details to establish that the torture and ill-treatment was inflicted intentionally. He described how he was tortured during an interrogation process and that they beat him whenever he could not answer their questions. Based on his testimony that he was arrested after speaking in public about his support for the SSA, he was interrogated about the SSA, and that others have been tortured for supporting the SSA, it appears that the treatment was intentionally inflicted.

**Lastly**, the interview established that the treatment was inflicted for a prohibited purpose- to obtain information about the SSA and to punish him for his support of the SSA. He indicated that he was arrested shortly after having a conversation about the SSA. He also described being interrogated about the SSA by the military.

The interview also provides evidence of other violations in connection with the torture and ill-treatment, such as arbitrary arrest and detention. He indicated that he was not told of a reason for his arrest nor charged formally with a crime. Interviewing his friend, Sai Sai, will help to verify Sai Aung's account. Further questions may be necessary to establish other violations. The interview ends well because Sai Aung has agreed to answer further questions and the interviewer knows how to contact him.

## **VI. Conclusion**

After reading this Chapter, you should be able to:

- recognize the elements of torture and other forms of ill-treatment under international law,
- develop critical questions in order to collect information about torture and other forms of ill-treatment, and
- conduct an effective interview in order to determine if a violation has taken place.

The next Chapter of this manual discusses how to evaluate evidence of torture and other forms of ill-treatment in more detail.



## CHAPTER 2: ANALYSIS – EVALUATING THE EVIDENCE

### I. Organizing the Evidence

Once a sufficient amount of evidence has been gathered, it is important to organize and evaluate it in a way that clearly and persuasively demonstrates a violation under international law. Remember that to establish a violation under international human rights law, every element of the violation must be satisfied. When beginning to analyze the information, it may be helpful to organize the evidence using the elements of the particular violation as a framework. For example, to establish torture and other forms of ill-treatment:

- What evidence exists to show severe or significant suffering or pain?<sup>†††</sup>
- What evidence exists to show that it was intentionally inflicted?
- What evidence exists to show that it was inflicted for a particular prohibited purpose?<sup>§§§</sup>
- What evidence exists to show state action was involved?

After picking out the essential elements, additional evidence may be used to more fully describe the violation. In addition to the elements, it is also important that who, what, where, why, when, and how is completely answered. For example:

- *Who*: Identify the victim(s) and perpetrator(s) and witness(es).
- *What*: Identify any potential violation(s) and the events surrounding the violation(s).
- *Where*: Indicate the location of the event.
- *Why*: Determine the cause(s) or possible cause(s) of the event.
- *When*: Determine when the event took place.
- *How*: Explain how the events unfolded.

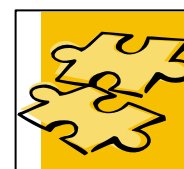
Using this method to organize the evidence helps to ensure the information is presented in a clear and persuasive way.

### II. Strengthening the Evidence

Evidence of human rights violations can be strengthened when it is possible to show a trend or pattern of violations, rather than focusing on one, single incident. While all violations are significant and deserve international attention, responsive action may be more forthcoming if there are numerous, connected violations. For example, a report drawing conclusions from 50 cases of members from a particular ethnic group who experienced torture and other forms of ill-treatment by the authorities would likely have a greater impact than isolated incidents that do not indicate a pattern.

Accordingly, when evaluating the evidence, it is important to determine whether the violations were isolated incidents or whether they share similarities, for example:

- The same type of victim is targeted, such as members of the same political party or ethnic group.<sup>\*\*\*\*</sup>



<sup>†††</sup> To prove a violation of torture, *severe* suffering or pain is required. Other forms of ill-treatment only require a showing of *significant* suffering or pain.

<sup>§§§</sup> This element is only necessary to show a violation of torture.

<sup>\*\*\*\*</sup> When members of a group are targeted specifically for their membership in the group, the harm they suffer may constitute a more serious crime under international law because of the discriminatory nature of the

- The same type of violation is committed, such as multiple instances of torture and other forms of ill-treatment in a particular area.
- The same type of perpetrator is responsible, such as the same military unit consistently targeting a particular group of people.
- The state provides the same types of responses, such as repeated denials of knowledge of torture and other forms of ill-treatment.

These patterns can assist in deciding if the state took a leading role in the violations. They may also assist in recognizing other human rights violations to produce a stronger message for international action.

### III. Serious Crimes under International Law: Genocide and Crimes against Humanity

Patterns of serious violations may result in the determination that a more serious human rights violation has occurred. For example, evidence of widespread or systematic torture and other forms of ill-treatment against political opponents or statements from a particular commander that “soon anyone suspected of supporting the Karen resistance movement will no longer exist” may indicate a discriminatory intent, or the intent to target a specific group, and the possible existence of acts of genocide or crimes against humanity and require further research..

#### A. Understanding the Magnitude of the Crimes

Genocide, crimes against humanity, and war crimes are among the most serious crimes in international law.<sup>16</sup> They represent severe violations of the most basic principles of human rights. As such, the prohibition against genocide, crimes against humanity, and war crimes is universally applicable. Therefore, in principle, states and individuals can be held accountable for acts of genocide, crimes against humanity, or war crimes without formally agreeing to abide by particular standards.<sup>17</sup> This manual and others in this series address genocide and crimes against humanity. War crimes will be covered in future editions.

Due to the seriousness that genocide and crimes against humanity represent, very strong evidence is generally required before international action is taken. Sometimes, even with strong evidence, regional and international political issues inhibit the political will to take action to protect survivors and punish those responsible. At the same time, many groups may be suffering from abuse that rises to the level of such crimes but may not realize that it meets the requirements to establish such a serious violation. It is important for human rights organizations to understand the legal definition of genocide and crimes against humanity in

#### Analysis Tip: Seeking Advice



Experience shows that an organization’s reputation and credibility could come into question if allegations of genocide or crimes against humanity are made without strong evidence. When dealing with a difficult case, a case that is a borderline violation or does not clearly rise to the level of extremity necessary to justify an allegation of an act of genocide or crime against humanity, it is always a good idea to ask for advice. A number of resources are available to assist in the analysis. Consultation and discussion can improve advocacy and prevent strategic blunders.

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violation(s). The issue of discrimination will be taken up in future editions of this manual and the others in this series.

order to understand the range of options available under international law and to improve their analysis of the situation. Knowledge of the elements of genocide and crimes against humanity will help in this task.

## B. Defining Genocide

### 1. *What are the elements of genocide?*

Genocide involves grave human rights violations designed to destroy a particular group of people, in whole or in part. To establish genocide under international law from evidence of human rights violations, the following evidence is needed:<sup>18</sup>

1. The victims belong to a particular national, ethnical, racial, or religious group.<sup>††††</sup>
2. Any of the following acts were committed:
  - Killing members of the group
  - Causing serious bodily or mental harm to members of the group
  - Deliberately inflicting on the group living conditions calculated to bring about its physical destruction in whole or in part
  - Imposing measures intended to prevent births within the group
  - Forcibly transferring children of the group to another group
3. The acts were committed with the intention to destroy that particular group, in whole or in part.

#### Vocabulary Alert: Genocide



Genocide is typically understood to refer to only large-scale killings. However, under international law, the definition of genocide refers to an intention to destroy a particular group (national, ethnic, racial, or religious) in whole or in part. According to the legal definition, certain human rights violations that do not automatically bring to mind a crime of genocide, such as rape and other forms of sexual violence, *may* meet the requirements of genocide.

### 2. *Can torture and other forms of ill-treatment qualify as an act of genocide?*

It is possible. There may be sufficient evidence to show that torture and other forms of ill-treatment amount to genocide. Genocide includes “causing serious bodily or mental harm to members of the group” and “deliberately inflicting conditions of life calculated to bring about physical destruction.” Based on this definition, when any of these acts have been committed and when the other elements of genocide are met, international tribunals have held torture and other forms of ill-treatment to qualify as a crime of genocide.<sup>19</sup>

### 3. *Does there need to be evidence of deaths to prove genocide?*

No. The common perception of genocide is that the term refers only to mass killings and, in the past, international tribunals have largely focused on cases involving the actual deaths of a significant number of people in findings of genocide.<sup>20</sup> However, an act of genocide does not necessarily require evidence of actual death. The definition of genocide includes conditions that are imposed in order to cause a slow death of a group or even conditions which do not amount to death, such as acts of torture or of rape.<sup>21</sup>

### 4. *What does it mean “to commit an act with intention?”*

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<sup>††††</sup> Some commentators argue that genocide should be defined more broadly as including groups and membership in such groups as defined by the perpetrator. This definition would include political and social groups. See Frank Chalk and Kurt Jonassohn, *The History and Sociology of Genocide: Analysis and Case Studies*. New Haven: Yale University Press, 1990.

“With intention” means purposeful. A person acts purposefully towards a result when his or her conscious objective is to cause that result. To prove this element of genocide, one must show that the alleged perpetrator had a particular reason for acting, i.e. that he or she intended to bring about the destruction, in whole or in part, of a national, racial, ethnic, or religious group. This element is particularly difficult to prove because it requires one to demonstrate what an alleged perpetrator was intending when he or she committed the crime.

### 5. *Whose intention is relevant in order to prove genocide?*

The perpetrator’s intention is crucial to whether the crime can be defined as genocide. The question is whose intention is relevant. The general rule is that both the people who directly and publicly incite genocide; plan or order an act of genocide, such as high ranking government officials; and those who carry out the act, such as soldiers or even next door neighbors, can be prosecuted, even if the soldiers or other individuals were “just following orders.”<sup>22</sup> Alleged perpetrators have been found guilty of genocide-related crimes for “knowingly and substantially” aiding others who committed genocide, even if it was not proven that they themselves intended destruction of a group.<sup>23</sup>

#### Documentation Tip: Proving Intention



If a particular group feels they are being persecuted, ask if they know of any official documents or actions to demonstrate intention. Have they heard a particular government official or commander speaking publicly about destroying the group? Or are certain members of the group, especially leaders, constantly targeted?

### 6. *Is direct evidence required to prove the perpetrator’s intention to commit genocide?*

Evidence is necessary to demonstrate the intentions of the perpetrator, and direct evidence such as government statements or army orders is extremely helpful for proving genocide. However, intent can also be inferred from the situation.<sup>24</sup> For example, intent may be inferred from a systematic pattern of coordinated acts, such as the use of derogatory language against a group or by the physical targeting of a group or their property.<sup>25</sup> Direct evidence showing intention, such as a document stating that certain members of a religious group suffered torture and other forms of ill-treatment on a certain date in order to bring about their destruction, may not be necessary if strong circumstantial evidence of intention exists.

#### Analysis Tip: Some of the differences between genocide and crimes against humanity



- **Mental Element:** To prove a crime against humanity you do not need to prove the perpetrator intended to bring about the destruction of a particular group. Instead, you need to show they “knew” that their crime they committed was part of a widespread or systematic attack against a civilian population.
- **Types of Victims:** Genocide requires that members of a religious, racial, ethnic or national group be targeted while crimes against humanity may also include other groups, such as social or political groups.
- **Types of Violations:** Acts that constitute genocide and crimes against humanity overlap but also have some differences.

## C. Defining Crimes against Humanity

### 1. *What are the elements of crimes against humanity?*

A crime against humanity has to be committed as part of a widespread or systematic attack against a civilian population. To establish crimes against humanity, the following evidence is needed:<sup>26</sup>

1. Any of the following acts were committed:
  - Murder and extermination (including imposing living conditions that are likely to cause death)
  - Enforced disappearances
  - Enslavement (including trafficking)
  - Deportation or forcible transfer of population (both within and outside national borders)
  - Imprisonment or other severe deprivation of physical liberty in violation of international law
  - Torture
  - Rape, sexual slavery, enforced pregnancy, and enforced sterilization
  - Persecution against any identifiable group on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law
2. The act(s) were part of a widespread or systematic attack.
3. The attack was against a civilian population.
4. The perpetrator knew about the attack.

### 2. *Can torture and other forms of ill-treatment qualify as a crime against humanity?*

It is possible. Torture and other forms of ill-treatment are explicitly defined as a crime against humanity in the Rome Statute of the International Criminal Court when other elements are met.<sup>27</sup> The International Criminal Tribunals also recognize torture and other forms of ill-treatment as a crime against humanity. Affirming this principle, the tribunals for Rwanda and Yugoslavia have held perpetrators accountable for offenses of torture and other forms of ill-treatment.<sup>28</sup>

### 3. *What qualifies as “a widespread or systematic attack” for purposes of proving a crime against humanity?*

“**Widespread**” commonly means that a large number of people have been affected.<sup>29</sup> As with genocide, however, there is no specific number designated to deem an attack as widespread.

“**Systematic**” means that an attack is part of a common plan involving substantial private or public resources.<sup>30</sup> However, it is not necessary to prove that the plan was part of the state’s or the organization’s official policy. For example, if the state or other organization torture and commit other forms of ill-treatment against civilians based on an informal policy or practice, there may be sufficient evidence to establish that a “system” is in place.<sup>31</sup>

“**Attack,**” for the purposes of establishing a crime against humanity, is not restricted to conduct during hostilities but extends to the treatment of those not involved in the conflict. However, there must be evidence that an attack was **either** widespread **or** systematic. There is no need for evidence that an attack was widespread *and* systematic.<sup>32</sup> Further, a

widespread or systematic attack can be something other than a military attack, such as an administrative or legal measure, e.g. forced displacement.<sup>33</sup>

***4. How to decide if a civilian population has been targeted as part of a crime against humanity?***

A population will still be considered “civilian” even if there are a few combatants among its population. Evidence must show that the population was “predominantly civilian” and that the civilians were the “primary object” of the abuse.<sup>34</sup>

***5. How to prove that the perpetrator “knew” about the attack in relation to a crime against humanity?***

To prove that the perpetrator “knew” about the attack, it is not necessary to prove that he or she knew about all of the details of the attack. Evidence that the perpetrator intended to assist or allow the attack to proceed is sufficient evidence of “knowledge” for crimes against humanity.<sup>35</sup> Specific documentation setting out such knowledge or intention is helpful, but not essential.

## **IV. Conclusion**

After reading this Chapter, you should be able to:

- organize the evidence to clearly and persuasively demonstrate a human rights violation,
- strengthen the evidence of violations by identifying patterns and trends, and
- recognize and identify the elements of more serious crimes under international law, such as genocide and crimes against humanity.

The next Chapter of this manual discusses advocacy strategies for dealing with torture and other forms of ill-treatment.

## CHAPTER 3: ADVOCACY – USING THE EVIDENCE

### I. Presenting the Evidence

Presenting human rights information persuasively in order to induce change or remedial action is often the ultimate goal for any human rights organization. Once evidence of a violation or violations has been collected, organized, and analyzed, the information is typically presented to an audience or audiences to accomplish a specific advocacy goal or objective.

There are a limitless number of potential audiences that may receive and act on human rights information. For example, some audiences commonly targeted by human rights groups include:

- Local communities (e.g., the Karen community, the refugee community)
- Regional or international NGOs (e.g., Asian Human Rights Commission, Amnesty International, Human Rights Watch)
- Government officials or agencies (e.g., the SPDC, the Government of Thailand, the President of the United States)
- Members of the international community (e.g., Europeans, Americans, Singaporeans)
- United Nations officials and bodies (e.g., Special Rapporteur on Torture, Working Groups, Human Rights Council)

Each audience is different in terms of how it will view information, be persuaded by information, and use the information. Therefore, the most effective presentation of information will largely depend on the audience. For that reason, it is a good idea to determine in advance the targeted audience before determining how to present the evidence.

The United Nations (UN) is a particularly significant audience to address when dealing with human rights violations. By raising issues to the UN, human rights organizations are able to make violations more visible to the international community, which in turn helps to increase pressure on the targeted government. Because there are several UN bodies able to respond to violations of torture and other forms of ill-treatment, this Chapter focuses on UN-based advocacy. For more information on addressing other audiences and detailed information on the enforcement mechanisms of the UN, please see the manual in this series entitled, “Documenting Human Rights Violations in Burma.”

### II. Role of the United Nations

In Burma, UN action is highly circumscribed due to regime-imposed restrictions on access and movement throughout the country. The regime imposes strict visa regulations on international staff of NGOs as well as UN staff and also limits access within the country for those who have acquired visas. There are only a small number of UN agencies operating inside Burma and those operations are highly restricted. The UN, however, continues to monitor Burma and is generally receptive to information on human rights violations occurring there.

#### Advocacy Tip: Benefits of Contacting the United Nations



At times, states simply ignore recommendations of UN officials and agencies. However, the UN provides a strong mechanism to report violations to the international community. Repeated reports by the UN on human rights violations in a particular country may also pressure that state to take action to prevent violations.

There are two main ways that NGOs and human rights groups can submit information to the UN:<sup>\*\*\*\*</sup>

1. To the UN Human Rights Treaty-Based Monitoring Bodies
2. To the UN Human Rights Council’s Special Procedures

Unlike the UN monitoring bodies, the UN Human Rights Council’s Special Procedures process does not have ratification prerequisites for groups and individuals to submit individual complaints or communications. Claims of human rights violations can be addressed to the Special Rapporteur on the Situation of Human Rights in Myanmar in addition to the various thematic rapporteurs, special representatives, and working groups.<sup>36</sup> For more information on the UN human rights system, please see the manual in this series entitled, “Documenting Human Rights Violations in Burma.”

Below are brief descriptions of some of the major UN-level agencies and individuals that are working on issues related to torture and other forms of ill-treatment in Burma.

## **A. UN Special Rapporteur on the Situation of Human Rights in Myanmar<sup>§§§§</sup>**

### ***1. What is the Special Rapporteur’s role?***

The Special Rapporteur is responsible for monitoring and reporting on the human rights situation in Burma and following any progress made towards transfer of power to a civilian government, the drafting of a legitimate constitution, the end of restrictions on personal freedoms, and the restoration of human rights in Burma.<sup>37</sup> Based on information received from various sources, including governments, the Special Rapporteur makes general recommendations and submits annual reports to the Human Rights Council and General Assembly.<sup>38</sup>

### ***2. Who may give information to the Special Rapporteur?***

The Special Rapporteur receives information on all aspects of human rights related to Burma from NGOs, governments, other UN agencies and monitoring bodies, and individuals. Provided there are no credibility or reliability issues, the Special Rapporteur will generally send allegations of violations to Burma’s government with requests for further information.<sup>39</sup>

### ***3. What types of violations will the Special Rapporteur consider?***

The Special Rapporteur will consider evidence of all human rights violations occurring in Burma, including torture and other forms of ill-treatment.

#### **Sending Information to Special Rapporteurs**



Submissions to Special Rapporteurs should be submitted in writing and provide **at least** the following information pertaining to the violation(s):

<sup>\*\*\*\*</sup> Of the nine core international human rights treaties, at the time of writing Burma has signed and ratified (with reservations) only two – the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC). Therefore, the only treaty-based monitoring bodies currently accepting information from NGOs and human rights groups are the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child.

<sup>§§§§</sup> As of May 2008, Thomás Ojea Quintana is the UN Special Rapporteur on the Situation of Human Rights in Myanmar.



- **Incident:** date and place of the incident; how the incident occurred; and a description of any law, practice or policy contributing the violation
- **Victims:** number of victims; victims' names, ages, sexes, professions; victims' residences, or places of origin
- **Perpetrators:** any information regarding the alleged perpetrators, including why they are suspected; if they are not a government official, include information about how the government failed to act with due diligence to prevent, investigate, punish, or ensure compensation
- **Violation:** identify the rights that were violated, referring to specific provisions of international law if possible, and a detailed description of the violation
- **Source:** the reporting organization's full name and address

\*\* For **urgent appeals**, provide the above information **and** the reasons why there is a fear of imminent violations.

#### Address Details

Individual communications can be emailed, mailed, or faxed to: Special Procedures Division, c/o Office of the High Commissioner for Human Rights, OHCHR-UNOG, 8-14 Avenue de la Paix, 1211 Geneva 10, Switzerland; **Fax:** + 41 22 917 9006; **Email:** [SPDInfo@ohchr.org](mailto:SPDInfo@ohchr.org) or [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org). Remember to specify the relevant Special Rapporteur on the envelope or in the subject line of e-mail or fax communications.

## **B. UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**<sup>\*\*\*\*\*</sup>

### ***1. What is the Special Rapporteur's role?***

The Special Rapporteur is responsible for investigating and responding to reports of torture and other forms of ill-treatment. Based on information received from various sources, including governments, the Special Rapporteur makes general recommendations and submits annual reports to the Human Rights Council.<sup>40</sup>

### ***2. Who may give information to the Special Rapporteur?***

The Special Rapporteur receives information from NGOs, governments, other UN agencies and monitoring bodies, and individual communications. Provided there are no credibility or reliability issues, the Special Rapporteur will generally send allegations of violations to the relevant government with requests for further information.<sup>41</sup> The Office of the Special Rapporteur on Torture provides a model questionnaire to assist individuals in submitting complaints. A copy of this questionnaire is provided in the Appendix and may be accessed online at <http://www.ohchr.org/english/issues/torture/rapporteur/model.htm>.

### ***3. What types of violations will the Special Rapporteur consider?***

The Special Rapporteur will consider evidence of the following violations:<sup>42</sup>

- Corporal punishment<sup>†††††</sup>
- Punishment that is contrary to international legal standards
- Prolonged incommunicado detention or solitary confinement
- “Torturous” conditions of detention
- Denial of medical treatment and adequate nutrition
- Imminent deportation to a country where there is a risk of torture or other ill-treatment,
- Threatened use or excessive use of force by law enforcement officials

\*\*\*\*\* As of March 2006, Manfred Nowak is the UN Special Rapporteur on Torture.

††††† Corporal punishment is when a person convicted of a crime is punished by physical injury, such as being caned or flogged for a crime.

#### 4. What if there is an urgent need to speak with the Special Rapporteur?

If an imminent threat exists to the personal integrity or the life of a person, it is possible to ask the Special Rapporteur to lodge an urgent appeal to the relevant government. The Special Rapporteur will ask the government to protect the person(s) at risk.<sup>43</sup>

### C. UN Committee against Torture

#### 1. Who are its members and when does it meet?

The Committee against Torture is composed of 10 independent experts in the field of torture and other forms of ill-treatment.<sup>\*\*\*\*</sup> Each member serves a four year term. The Committee meets twice a year with sessions lasting three weeks in May and two weeks in November.<sup>44</sup>

#### 2. What is the Committee's role?

The Committee monitors the implementation of the Convention against Torture to ensure states are in compliance with international standards. The Committee receives and reviews states' reports and provides recommendations. The Committee submits annual reports to states and the General Assembly.<sup>45</sup>

#### 3. Who can submit information to the Committee?

The Committee receives periodic reports from states relating to the progress of implementing provisions contained in the Convention against Torture. Only states that have signed onto Convention are obligated to submit reports to the Committee.<sup>46</sup> The Committee is also receptive to information from human rights organizations. To submit information to the Committee, organizations must write to the Secretariat of the Committee several months prior to the Committee's meeting.<sup>47</sup>

#### 4. Is there an individual complaint process for the Committee?

Yes. Under Article 22 of the Convention against Torture, the Committee may receive communications by individuals or groups.<sup>48</sup> However the complaint must concern a state that has ratified the Convention.<sup>49</sup> Burma has not ratified the Convention against Torture, therefore the complaint mechanism is not available to individuals from Burma under the Convention.

### D. Relevant Bodies at the United Nations

This section provides contact details for some of the main UN bodies responsible for monitoring Burma.

Contact Information		
Organization	Contact Details	Useful Websites
UN Secretary General, Ban Ki-Moon	Secretary General: Ban Ki-Moon Headquarters: 1st Ave. and 46th street New York, NY 10017 USA Tel: +1 212 963 1234 Fax: +1 212 963 4879	To learn more about the Secretary-General, visit: <a href="http://www.un.org/sg/biography.shtml">http://www.un.org/sg/biography.shtml</a>  For contact details of the permanent missions to the

<sup>\*\*\*\*</sup> As of 2007, Claudio Grossman is the Chairperson of the Committee.

		United Nations in New York see: <a href="http://www.un.org/Overview/missions.htm">http://www.un.org/Overview/missions.htm</a>
Human Rights Council <sup>§§§§§</sup>	To submit complaints to the Council under the 1503 Procedure:  Treaties and Human Rights Council Branch c/o OHCHR-UNOG Palais des Nations 8–14, Avenue de la Paix CH–1211 Geneva 10 Switzerland Fax: +41 22 917 90 11 E-mail: <a href="mailto:CP@ohchr.org">CP@ohchr.org</a>  To submit communications to the Council under the Special Procedures:  c/o OHCHR-UNOG Palais des Nations 8–14, Avenue de la Paix CH–1211 Geneva 10 Switzerland Fax: +41 22 917 90 06 E-mail: <a href="mailto:urgent-action@ohchr.org">urgent-action@ohchr.org</a>	To learn more about the Human Rights Council, visit: <a href="http://www.ohchr.org/english/bodies/hrcouncil/">http://www.ohchr.org/english/bodies/hrcouncil/</a>  To learn more about the complaint mechanism available under the Council’s 1503 Procedure, visit: <a href="http://www2.ohchr.org/english/bodies/chr/complaints.htm">http://www2.ohchr.org/english/bodies/chr/complaints.htm</a> To learn more the Special Procedures of the Council, visit: <a href="http://www2.ohchr.org/english/bodies/chr/special/index.htm">http://www2.ohchr.org/english/bodies/chr/special/index.htm</a>
UN Office of the High Commissioner for Human Rights, Navanethem Pillay	UN Office of the High Commissioner for Human Rights Palais des Nations 8-14 Avenue de la Paix CH-1211 Geneva 10 Switzerland Tel: +41 22 917 90 00	To learn more about the UN Office of the High Commissioner for Human Rights, visit: <a href="http://www.ohchr.org/EN/Pages/WelcomePage.aspx">http://www.ohchr.org/EN/Pages/WelcomePage.aspx</a>
UN Office of the High Commissioner for Human Rights, Southeast Asia Office, Regional Representative Homayoun Alizadeh	OHCHR Southeast Asia Regional Office UNESCAP UN Secretariat Building, 6th Fl., Room A-601 Rajdamnern Nok Av. Bangkok 10200, Thailand Tel.: +66 2 288 1235 Fax: +66 2 288 3009 E-mail: <a href="mailto:ohchr.bangkok@un.org">ohchr.bangkok@un.org</a> <a href="mailto:alizadeh@un.org">alizadeh@un.org</a>	To learn more about the UN Office of the High Commissioner for Human Rights Southeast Asia Regional Office, visit <a href="http://www.un.or.th/ohchr/index.html">http://www.un.or.th/ohchr/index.html</a> .
UN Special Rapporteur on the Situation of Human Rights in Myanmar, Thomás Ojea Quintana	UN Special Rapporteur on the situation of Human Rights in Myanmar c/o OHCHR-UNOG Palais des Nations 8-14 Avenue de la Paix CH-1211 Geneva 10 Switzerland Fax: +41 22 917 90 06  For urgent appeals, email: <a href="mailto:urgent-action@ohchr.org">urgent-action@ohchr.org</a>	For documents on the Special Rapporteur, visit: <a href="http://www.unhcr.ch/html/men u2/7/a/mmya.htm">http://www.unhcr.ch/html/men u2/7/a/mmya.htm</a>

§§§§§ The Human Rights Council replaced the Commission on Human Rights on 27 March 2006 when the Commission was formally dissolved and the Council effectively took over all the functions and responsibilities of the Commission. Previously, the Commission was a subsidiary organ of ECOSOC. The Council now reports directly to the General Assembly. The Commission membership was also reduced from 53 state members to the Council’s 47. To better carry out its mandate, the Council also adopted the Universal Periodic Review (UPR) mechanism which enables the Council to review the human rights obligations of all countries.

UN Special Envoy of the Secretary-General for Myanmar	There is no specific process for sending information to the Special Envoy.  Currently, the post of the Special Envoy is vacant.	To get updated information on the post of the Special Envoy, visit: <a href="http://www.un.org/News/ossgrsg/table.htm">http://www.un.org/News/ossgrsg/table.htm</a>
Special Rapporteur on Torture, Manfred Nowak	Special Rapporteur on Torture c/o OHCHR-UNOG Palais des Nations 8-14 Avenue de la Paix CH-1211 Geneva 10 Switzerland Fax: +41 22 917 90 06 Email: <a href="mailto:urgent-action@ohchr.org">urgent-action@ohchr.org</a>	To learn more about the Special Rapporteur on Torture, visit: <a href="http://www.ohchr.org/english/issues/torture/rapporteur/">http://www.ohchr.org/english/issues/torture/rapporteur/</a>
Committee against Torture, Chairperson, Claudio Grossman	Committee against Torture Petitions Team c/o OHCHR-UNOG Palais des Nations 8-14 Avenue de la Paix CH-1211 Geneva 10 Switzerland Fax: +41.22.917.9022 E-mail: <a href="mailto:tb-petitions@ohchr.org">tb-petitions@ohchr.org</a>	To learn more about the Committee against Torture, visit: <a href="http://www.ohchr.org/english/bodies/cat/">http://www.ohchr.org/english/bodies/cat/</a>

### III. Conclusion

After reading this Chapter, you should be able to:

- present the evidence in a clear and precise manner,
- identify who to address at the UN regarding violations of torture and other forms of ill-treatment, and
- understand how to submit information to the UN.

For more information on presenting evidence of human rights violations to the UN, please see the manual in this series entitled, “Documenting Human Rights Violations in Burma.”

## APPENDIX 1 – MODEL QUESTIONNAIRE FOR TORTURE \*\*\*\*\*

### **MODEL QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING TORTURE OR THEIR REPRESENTATIVES**

Information on the torture of a person should be transmitted to the Special Rapporteur in written form and sent to:

Special Rapporteur on Torture  
c/o Office of the High Commissioner for Human Rights  
United Nations Office at Geneva  
CH-1211 Geneva 10, Switzerland  
E-mail: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org)

Although it is important to provide as much detail as possible, the lack of a comprehensive accounting should not necessarily preclude the submission of reports. However, the Special Rapporteur can only deal with clearly identified individual cases containing the following minimum elements of information:

- a. Full name of the victim;
- b. Date on which the incident(s) of torture occurred (at least as to the month and year);
- c. Place where the person was seized (city, province, etc.) And location at which the torture was carried out (if known);
- d. Indication of the forces carrying out the torture;
- e. Description of the form of torture used and any injury suffered as a result;
- f. Identify of the person or organization submitting the report (name and address, which will be kept confidential).

Additional sheets should be attached where space does not allow for a full rendering of the information requested. Also, copies of any relevant corroborating documents, such as medical or police records should be supplied where it is believed that such information may contribute to a fuller accounting of the incident. Only copies and not originals of such documents should be sent.

#### **I. Identity of the Person(s) Subjected to Torture**

- A. Family name:
- B. First and other names:
- C. Sex (male or female):
- D. Birth date or age:
- E. Nationality:
- F. Occupation:
- G. Identity card number (if applicable):
- H. Activities (trade union, political, religious, humanitarian/ solidarity, press, etc.):
- I. Residential and/or work address:

\*\*\*\*\* Please note that this document has been reproduced from [www.unhchr.com](http://www.unhchr.com). There is no affiliation between ND-Burma and the Office of the High Commissioner for Human Rights. The document is simply provided for training purposes.

**II. Circumstances Surrounding Torture**

- A. Date and place of arrest and subsequent torture
- B. Identity of force(s) carrying out the initial detention and/or torture (police, intelligence services, armed forces, paramilitary, prison officials, other)
- C. Were any person, such as a lawyer, relatives or friends, permitted to see the victim during detention? If so, how long after the arrest?
- D. Describe the methods of torture used
- E. What injuries were sustained as a result of the torture?
- F. What was believed to be the purpose of the torture?
- G. Was the victim examined by a doctor at any point during or after his/her ordeal? If so, when? Was the examination performed by a prison or government doctor?
- H. Was appropriate treatment received for injuries sustained as a result of the torture?
- I. Was the medical examination performed in a manner which would enable the doctor to detect evidence of injuries sustained as a result of the torture? Were any medical reports or certificates issued? If so, what did the reports reveal?
- J. If the victim died in custody, was an autopsy or forensic examination performed and which were the results?

**III. Remedial Action**

Were any domestic remedies pursued by the victim or his/her family or representatives (complaints with the forces responsible, the judiciary, political organs, etc.)? If so, what was the result?

**IV. Information Concerning the Author of the Present Report**

- A. Family Name
- B. First Name
- C. Relationship to victim
- D. Organization represented, if any
- E. Present full address

## ENDNOTES

<sup>1</sup> The main international agreements explicitly prohibiting the use of torture and other forms of ill-treatment include:

- *The Universal Declaration of Human Rights* (Article 5);
- *Geneva Conventions* (Common Article 3), and the *Additional Protocols I and II*, which are part of the Laws of War, of which Burma is a party;
- *The International Covenant on Civil and Political Rights* (ICCPR) (Article 7), not signed by Burma;
- *The Rome Statute of the International Criminal Court* (Article 8), not signed by Burma;
- *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Convention against Torture), which has not been signed by Burma;
- *The Covenant on the Rights of the Child* (Article 37), which applies where a victim is under 18. Burma is a party to this treaty, with reservations;
- *The Convention on the Elimination of All Forms of Racial Discrimination* (Article 5), not signed by Burma;
- *The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, not signed by Burma;

Regional agreements also expressly prohibit torture, such as in the Americas, *the Inter-American Convention to Prevent and Punish Torture*, *the American Convention on Human Rights* (Article 5), *the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women* (Article 4); in Europe, *the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* along with its *Protocols I and II*, *the Final Act of Helsinki of 1975* (Principle VII), *the European Convention for the Protection of Human Rights and Fundamental Freedoms* (Article 3); in Africa, *the African Charter on Human and Peoples' Rights* (Article 5); and in the Middle East, *the Arab Charter on Human Rights* (Article 13). Similar agreements have not yet been signed by ASEAN nations.

Non-binding international instruments aimed at prohibiting torture include: the *UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The Declaration against Torture predates the Convention against Torture and many of its provisions are similar those in the Convention.

For copies of these documents, see <http://www.ohchr.org/english/law/> (last visited 19 March 2007).

Burma is also subject to customary international law (CIL). CIL is a body of legal rules that comes from general state practice which over time has become accepted as binding law. However, a state may not be bound by a particular rule if that state has persistently objected to the rule.

So, even if Burma has not signed some of the above treaties, it will still be subject to associated CIL norms (unless it can demonstrate a pattern of persistent objections to be bound by the law). Most people consider that the prohibition against torture and other forms of ill-treatment is not only part of general CIL but is a *jus cogens* norm, which means it is a fundamental norm of international law which states may never violate, even if they persistently object. In other words, states may not "contract out" of such norms. See, *Prosecutor v Anto Furundzija*, ICTY Trial Judgment, 10 December 1998.

<sup>2</sup> *UN Convention against Torture*, Article 1, 10 December 1984.

<sup>3</sup> Camille Giffard, *The Torture Reporting Handbook*, Human Rights Centre, University of Essex, February 2000; Michael Peel, Loam Lubell, and Jonathan Beynon, *Medical Investigation and Documentation of Torture: A Handbook for Health Professionals*, Human Rights Centre, University of Essex, 2005.

<sup>4</sup> Mary Callahan, *Political Authority in Burma's Ethnic Minority States: Devolution, Occupation, and Coexistence*. Washington, DC: East-West Center Washington, 2007, p. vix, explaining that in Burmese, there is no equivalent for this meaning of state. Instead one might use *asoya* (government) or *naing-ngan* (country), depending on the context.

<sup>5</sup> *Eight Seconds of Silence: The Death of Democracy Activists Behind Bars*, Assistance Association for Political Prisoners (Burma), May 2006.

<sup>6</sup> *Human Rights Yearbook - Burma: 2005*, Human Rights Documentation Unit, National Coalition Government of the Union of Burma, July 2006.

<sup>7</sup> *Enduring Hunger and Repression: Food Scarcity, Internal Displacement, and the Continued Use of Forced Labor in Toungoo District*, Karen Human Rights Group, September 2004.

<sup>8</sup> *Human Rights Yearbook - Burma: 2005*, Human Rights Documentation Unit, National Coalition Government of the Union of Burma, July 2006.

<sup>9</sup> *The Darkness We See: Torture in Burma's Interrogation Center's and Prisons*, Assistance Association for Political Prisoners (Burma), December 2005.

<sup>10</sup> *Ibid. Myanmar: Justice on Trial*, Amnesty International, 2004.

<sup>11</sup> *Licence to Rape*, Shan Women's Action Network, June 2002; *System of Impunity: Nationwide Patterns of Sexual Violence by the Military Regime's Army and Authorities in Burma*, Women's League of Burma, September 2004; *Catwalk to the Barracks: Conscription of Women for Sexual Slavery and Other Practices of Sexual Violence by Troops of the Burmese Military Regime in Mon Areas*, Woman and Child Rights Project, July 2005; *Shattering Silence*, Karen Women's Organization, April 2004; *Hidden Crimes Against Chin Women*, Women's League of Chinland, 2006.

<sup>12</sup> *Women in and from Conflict Areas of Burma*, Women's League of Burma, June 2000.

<sup>13</sup> *Gathering Strength – Women from Burma on their Rights*, Images Asia, January 2002; *The Darkness We See: Torture in Burma's Interrogation Center's and Prisons*, Assistance Association for Political Prisoners (Burma), December 2005.

<sup>14</sup> *Eight Seconds of Silence: The Death of Democracy Activists Behind Bars*, Assistance Association for Political Prisoners (Burma), May 2006; *The Darkness We See: Torture in Burma's Interrogation Center's and Prisons*, Assistance Association for Political Prisoners (Burma), December 2005.

<sup>15</sup> *Human Rights Yearbook- Burma: 2005*, Human Rights Documentation Unit, National Coalition Government of the Union of Burma, July 2006.

<sup>16</sup> Recently, the international community has reiterated the importance of preventing genocide. For example, as well as the International Criminal Court's focus on the crime, the Secretary General of the United Nations recently established the position of Special Adviser on the Prevention of Genocide, currently held by Francis Deng. See Office of the Special Adviser on the Prevention of Genocide, [http://www.un.org/Depts/dpa/prev\\_genocide/index.htm](http://www.un.org/Depts/dpa/prev_genocide/index.htm) (under construction when last visited 27 July 2008). Further, the Secretary General's High-level Panel on Threats, Challenges and Change has suggested that the Security Council should authorize military intervention where a country is unwilling or powerless to prevent genocide. The International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) have both prosecuted genocide and crimes against humanity as part of their jurisdiction. See generally for the ICTY, [www.un.org/icty/](http://www.un.org/icty/) (last visited 27 July 2008) and for the ICTR, [www.un.org/icttr/](http://www.un.org/icttr/) (last visited 27 July 2008).

<sup>17</sup> As the most serious of offenses in international law, it is generally accepted that the violation of genocide is universally applicable, meaning that it applies to states and individuals even if they have not signed onto a treaty or agreement to prevent genocide. This idea has been referenced by the International Court of Justice, the 1971 Barcelona Traction and in several statements by the U.N. Secretary General. Regardless, Burma is a party to the Convention on the Prevention and Punishment of the Crime of Genocide (with reservations).

Crimes against humanity have also been deemed to be part of customary international law and are therefore universally applicable. See, Bassiouni, C. and Hampson, F. et al., "Crimes against Humanity and Universal Jurisdiction," in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/crimes-against-humanity.html> (last visited 27 July 2008).



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<sup>18</sup> Genocide is prohibited under several treaties, including the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) and the Rome Statute for the International Criminal Court (ICC), as well as customary international law. It is prohibited during times of war and peace. Both state and non-state actors, such as armed opposition groups, may be guilty of genocide.

Since 1956, Burma has been a party to the Genocide Convention and is also subject to customary international law.

The International Criminal Court provides a useful summary of the elements of genocide. *See, Elements of Crimes*, Article 6, [http://www.icc-cpi.int/library/about/officialjournal/Elements\\_of\\_Crimes\\_120704EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Elements_of_Crimes_120704EN.pdf) (last visited 29 July 2008).

<sup>19</sup> *Prosecutor v. Jean-Paul Akayesu*, ICTR Trial Judgment, 2 September 1998.

<sup>20</sup> *See, Prosecutor v. Jelacic*, ICTR Trial Judgment, 14 December 1999, para 82; *Prosecutor v. Akayesu*, ICTR Trial Judgment, 2 September 1998.

<sup>21</sup> Regarding the number of people who need to be harmed for genocide to apply, the International Criminal Court suggests that the number simply needs to be one or more, highlighting that there does not need to be evidence of the extermination of the whole or even most of the population. *See, Elements of Crimes*, [http://www.icc-cpi.int/library/about/officialjournal/Elements\\_of\\_Crimes\\_120704EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Elements_of_Crimes_120704EN.pdf) (last visited 29 July 2008).

<sup>22</sup> *Prosecutor v. Jean-Paul Akayesu*, ICTR Trial Judgment, 2 September 1998; *Kosovo Backgrounder: Sexual Violence as International Crime*, Human Rights Watch, 10 May 1999, <http://www.hrw.org/backgrounder/eca/kos0510.htm> (last visited 27 July 2008); Stiglmayer, Alexandra, "Sexual Violence: Systematic Rape," in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/sexual-systematic-rape.html> (last visited 27 July 2008).

<sup>23</sup> Orentlicher, Diane F., "Genocide," in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/genocide.html> (last visited 1 August 2008).

<sup>24</sup> *See, Elements of Crimes*, [http://www.icc-cpi.int/library/about/officialjournal/Elements\\_of\\_Crimes\\_120704EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Elements_of_Crimes_120704EN.pdf) (last visited 29 July 2008).

<sup>25</sup> *Prosecutor v. Akayesu*, ICTR Trial Judgment, 2 September 1998, para 523; *Prosecutor v. Kayishema and Ruzindana*, ICTR Trial Judgment, 21 May 1999; *Krstic Judgment*, ICTY Trial Judgment, August 2001, para 580 (considering evidence of the destruction of mosques and houses belonging to members of the group to prove the necessary intent).

<sup>26</sup> The definition is taken from the *Rome Statute of the International Criminal Court*, Article 7. Crimes against humanity were identified formally as breaching international law in the Charter of the Nuremberg Tribunal in 1945. In 1946, the United Nations' General Assembly recognized that international law prohibits crimes against humanity. The ICC also prosecutes crimes against humanity. Burma is not directly subject to the ICC's jurisdiction but is subject to the prohibition against crimes against humanity under customary international law. *See, Rome Statute of the International Criminal Court* (1998), Article 7, [http://untreaty.un.org/cod/icc/statute/english/rome\\_statute\(e\).pdf](http://untreaty.un.org/cod/icc/statute/english/rome_statute(e).pdf) (last visited 2 August 2008); Amnesty International, *The International Criminal Court: Fact Sheet 4 – Prosecuting Crimes Against Humanity*, <http://web.amnesty.org/library/index/engior400052000> (last visited 27 July 2008); *see also*, Bassiouni, C. and Hampson, F. et al., "Crimes against Humanity and Universal Jurisdiction," in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/crimes-against-humanity.html> (last visited 27 July 2008).

<sup>27</sup> *Rome Statute of the International Criminal Court*, Article 7(1)(f) and (k), 17 July 1998 (including "torture" and "other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health," as acts constituting a crime against humanity when the others elements of the crime are also met).

<sup>28</sup> *Prosecutor v. Akayesu*, ICTR Trial Judgment, 2 September 1998; *Prosecutor v. Kunarac*, ICTY Trial Judgment, 12 June 2002; *Prosecutor v. Tadic*, ICTY, Trial Judgment, 30 July 2002.

<sup>29</sup> See, Diego Garcia, *A Crime Against Humanity? Public Debate at the House of Commons*, 16 November 2004, citing *Prosecutor v. Tadic*, Trial Judgment, paras 644-648; *Prosecutor v Akayesu*, ICTR Trial Judgment, 2 September 1998, para 580.

<sup>30</sup> *Ibid.*

<sup>31</sup> See, Human Rights Watch, *Targeting the Anuak: Human Rights Violations and Crimes against Humanity in Ethiopia's Gambella Regio*, section on Crimes Against Humanity in International Law, citing *Prosecutor v. Akayesu*, ICTR Trial Judgment, 2 September 1998, para 580, [http://hrw.org/reports/2005/ethiopia0305/10.htm#\\_ftn201](http://hrw.org/reports/2005/ethiopia0305/10.htm#_ftn201) (last visited 28 July 2008).

<sup>32</sup> *Ibid.*

<sup>33</sup> See, Amnesty International, *The International Criminal Court: Fact Sheet 4 – Prosecuting Crimes Against Humanity*, <http://web.amnesty.org/library/index/engior400052000> (last visited 28 July 2008); Bassiouni, C. and Hampson, F. et al., “Crimes against Humanity and Universal Jurisdiction,” in *Crimes of War, The Book*, <http://www.crimesofwar.org/thebook/crimes-against-humanity.html> (last visited 28 July 2008).

<sup>34</sup> *Prosecutor v. Naletilic and Martinovic*, ICTY Trial Judgment, 31 March 2003, para 235, <http://www.un.org/icty/cases-e/index-e.htm> (last visited 28 July 2008).

<sup>35</sup> See *Elements of Crimes*, [http://www.icc-cpi.int/library/about/officialjournal/Elements\\_of\\_Crimes\\_120704EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Elements_of_Crimes_120704EN.pdf) (last visited 29 July 2008).

<sup>36</sup> A full list of human rights concerns of UN thematic rapporteurs, representatives of the UN Secretary-General, and working groups can be accessed online at: <http://www2.ohchr.org/english/bodies/chr/special/themes.htm> (last visited 5 October 2008).

<sup>37</sup> Office of the High Commissioner for Human Rights. “Situation of human rights in Myanmar,” Commission on Human Rights Resolution 1992/58, 3 March 1992, [http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.RES.1992.58.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.RES.1992.58.En?Opendocument) (last visited 1 August 2008).

<sup>38</sup> Office of the High Commissioner for Human Rights. “Special Procedures of the Human Rights Council,” <http://www2.ohchr.org/english/bodies/chr/special/> (last visited 1 August 2008).

<sup>39</sup> Office of the High Commissioner for Human Rights. “Situation of human rights in Myanmar,” Commission on Human Rights Resolution 1992/58, 3 March 1992, [http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.RES.1992.58.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.RES.1992.58.En?Opendocument) (last visited 1 August 2008).

<sup>40</sup> *Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/issues/torture/rapporteur/> (last visited 12 March 2007)

<sup>41</sup> *Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/issues/torture/rapporteur/> (last visited 12 March 2007). The Special Rapporteur may also include information in the annual report to the Commission on Human Rights.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.* The Special Rapporteur will aim to prevent the loss of life and therefore will usually make the appeal even if there are still domestic remedies available.

<sup>44</sup> The Committee may decide to hold special sessions in addition to the two regular sessions if requested to do so by a majority of its members or by a State Party to the Convention. See, *Committee against Torture*, Office of

## Endnotes

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the High Commissioner for Human Rights, <http://www.ohchr.org/english/bodies/cat/index.htm> (last visited 12 March 2007).

<sup>45</sup> See, *Committee against Torture*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/bodies/cat/index.htm> (last visited 12 March 2007).

<sup>46</sup> Burma is not a signatory to the Convention against Torture.

<sup>47</sup> See, *Committee against Torture*, Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/bodies/cat/index.htm> (last visited 12 March 2007).

<sup>48</sup> *Convention against Torture*, Article 22, 10 December 1984; Under Article 21 of the Convention, the Committee is also empowered to consider inter-state complaints, meaning complaints from one state party against another state party. To make an inter-state complaint, however, both states must be a party to the Convention against Torture. See *Convention against Torture*, Article 21, 10 December 1984.

<sup>49</sup> In addition, the concerned state must also recognize the competence of the Committee to consider the complaint.