

COALITION OF INTERNATIONAL NGOs AGAINST TORTURE (CINAT)

International Human Rights Day

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The Coalition of International NGOs Against Torture (CINAT), commends United Nations High Commissioner for Human Rights Louise Arbour for making the fight against torture a central theme of this year's Human Rights Day on 10 December.

In this context, CINAT wishes to remind States that the prohibition on torture and cruel, inhuman or degrading treatment or punishment (ill treatment) is absolute and is a peremptory norm under international law.

No person or State is exempt from the ban. All are required to uphold it at all times, in all places and under all circumstances.

The objective of combating "terrorism" has come to dominate the laws adopted and policies and practice pursued by many governments. But instead of countering terrorism and combating torture and ill treatment jointly, in the name of guaranteeing national and global security, several States are attacking the existing international anti-torture framework. CINAT would like to restate that the violation of the fundamental right of freedom from torture and other ill-treatment weakens the objective of preserving security.

The undermining and circumvention of the absolute prohibition of torture and other ill-treatment while implementing counterterrorism measures is of great concern to CINAT : some States torture or ill-treat persons suspected of involvement in terrorism ; some have been "outsourcing" torture or other ill-treatment to third countries ; others use statements in judicial or other proceedings obtained in breach of the prohibition. States are also increasingly transferring individuals to countries where they face a real risk of being subject to torture or ill treatment, while some are using "diplomatic assurances" or "memoranda of understanding" to circumvent the non-refoulement prohibition. There is also growing evidence that some States are transferring individuals to secret detention centres outside legal procedures leaving them without the possibility to judicially challenge their detention and at great risk of torture or other ill treatment.

Concerned by the current erosion of this absolute ban and other related human rights safeguards, CINAT calls on all States to comply with their international obligations not to commit and to prevent torture and other ill-treatment, including their obligation not to return, extradite or otherwise transfer persons under their jurisdiction to countries where there is a risk they would be subjected to torture or other ill treatment and not to use, relay and/or admit in any proceedings information which has been or may have been obtained as a result of prohibited treatment, except in proceedings against a person suspected of having committed such treatment, as evidence that such information was obtained.

CINAT reminds all States of the importance of taking effective measures to prevent torture and other ill treatment including by ensuring that any individual arrested is promptly brought before a judge, has immediate access upon arrest to a lawyer of his/her choosing, to an interpreter if necessary, to an independent doctor and to visits by, as well as to notify, relatives or third parties

about the detention. It also reminds States that incommunicado detention or detention in secret places may facilitate the perpetration of torture and other ill-treatment and can in itself constitute torture or ill-treatment. As a safeguard against prohibited treatment, States should establish independent national preventative mechanisms authorised to visit all persons in all places where people are deprived of their liberty.

CINAT further reminds States of their obligation to provide effective remedies and adequate reparation to victims of torture and ill treatment.

CINAT also urges governments to support the work undertaken by the United Nations experts concerned with torture and ill treatment and the conditions that give rise to this unlawful practice.

CINAT recommends that all States which have not already done so become a party to the International Covenant on Civil and Political Rights and its Optional Protocol, to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as to recognise the competence of the Committee Against Torture under Article 22 of the Convention, and to sign and ratify its Optional Protocol which constitutes a step further in the implementation of the States' obligations related to the absolute prohibition of torture and ill-treatment. CINAT strongly believes that the effective implementation of this instrument will enhance the States parties ability to prevent torture and ill-treatment through regular and unannounced visits to all places of detention.

P.S.

* Published on FIACAT's website.