



DIPLOMACY OF CONSCIENCE

AMNESTY INTERNATIONAL AND
CHANGING HUMAN RIGHTS NORMS

ANN MARIE CLARK

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Chapter Three

TORTURE

IN ITS FIRST FEW YEARS, Amnesty International sought relief and release for prisoners of conscience on a case-by-case basis through its volunteer adoption groups. However, for AI leaders and members, familiarity with individual cases of political imprisonment drove home the need for stronger, preventative international norms concerning prisoner treatment. The frequency of torture in such cases was particularly troubling. AI recognized the need to try to shape state behavior at a general level, through norms, as well as in specific cases. To that end, the organization devised a series of practical actions to promote the emergence of new norms to prohibit the use of torture by governments.

A study of those actions and events reveals a generalizable pattern in the emergence of global norms against torture that can be used as a template for understanding the development of norms on other human rights themes. The development started with Amnesty International's dissemination of contemporaneous reports on government use of torture. Those facts contrasted with official international principles of human rights, and AI deliberately brought attention to the disjuncture through public campaigning. AI helped to build a consensus about the need for norms, both among the public and among elites. The moral and political dissonance generated by the contrast between principles and practice motivated the construction of norms in the United Nations, where NGOs collaborated with and advised concerned governments who had official standing to articulate statements on torture that implied higher levels of obligation for states. The achievement of new norms provided new official procedures which AI could use for continued mobilization in a cycle of further fact finding and application of existing standards in light of the newly constructed norms.

THE EARLY PRESCRIPTIVE STATUS OF THE INTERNATIONAL PROHIBITION OF TORTURE

As a benchmark for assessing Amnesty International's role and impact, it is important to describe the international legal status of prohibitions against torture prior to Amnesty's activity. In fact, the international pro-

hibition against torture started out as a “paper” proscription with little force. Before Amnesty International became active on the issue, human rights concepts in general—let alone the prohibition on torture—were rarely applied internationally to persuade, criticize, or interpret states’ behavior, which scholars have posited as a measure of the “prescriptive status” held by formal and informal rules in international relations.¹

Between the UN’s adoption of the Universal Declaration of Human Rights (UDHR) in 1948 and AI’s founding in 1961, actual cases of torture did not come under international scrutiny. Article 5 of the UDHR prohibited torture, but there was no way to enforce the prohibition. The governments who adopted the declaration in 1948 did not consider it to be a binding document.² Rather, the declaration was seen as a symbolic articulation of principles that, if states pursued the question, might later form the basis for binding treaties. As mentioned in chapter 1, in 1947 the Commission on Human Rights of the UN’s Economic and Social Council (ECOSOC) declared that it could take no action on specific human rights complaints, a decision that was reaffirmed in 1959.³

Although torture had never been defined in international law, on a moral level the concept of torture did not need to be “discovered” or clarified before making a case for its prohibition.⁴ It was an old practice, although to the general public it seemed rare enough that news of it still possessed the capacity to shock. The impetus for the prohibition of torture in the Universal Declaration had been Nazi and fascist practices.⁵ Standing moral principles and the experience of World War II made it relatively easy to gain the initial consensus on condemning torture. Still, the condemnation had no teeth. There was no provision for pursuing actual cases of torture through international norms—the single exception being that under the Geneva Conventions of 1949, the International Committee of the Red Cross (ICRC) was authorized to investigate prisoner treatment in situations of armed conflict. The ICRC’s investigations were carried out privately, in mostly confidential exchanges with governments. In public, the international community had condemned torture only in general terms, never as actually practiced by a specific country. In sum, while states offered qualified endorsement of general human rights principles at the UN, there was very little institutional promotion of those principles and certainly no active implementation in the UN’s first two decades.⁶ Accordingly, international law prohibited torture in word only, and only in general terms rather than with reference to specific occurrences.

Amnesty’s early leaders did communicate frequently with the ICRC, whose findings of torture in the course of its work were echoed in Amnesty’s independent prisoner adoption inquiries. In 1966, just five years after AI was founded, its annual membership assembly approved cooperation

with the ICRC to “establish the right to investigate alleged cases of torture” outside of situations of armed conflict, and directed AI’s national sections to “give the problem of torture special attention.”⁷ Amnesty had always opposed the torture and other maltreatment of prisoners of conscience, but now it was beginning to decry the use of torture in general. Two years later, AI formally extended its mandate to include work against maltreatment of any prisoner.

The change broadened AI’s concerns beyond the plight of prisoners of conscience: in 1968, the organization decided that, from then on, all use of torture should be subject to its watch.⁸ The torture case thus provides us with an early view of phases in the emergence of international human rights norms, starting with Amnesty’s efforts to report on torture as practiced by governments.

PHASE I, FACT FINDING: THE GREEK CASE

At the beginning of Amnesty International’s self-appointed watch against torture, a military coup in Greece focused world attention on the use of torture in “the cradle of democracy.” Torture in Greece, and the concurrent loss of political freedoms there after the coup, was particularly salient for onlookers in Europe and the West. Greece was a member of the North Atlantic Treaty Organization (NATO), a member of the Council of Europe, and an important strategic ally of the United States. In contrast to the distress over the coup expressed by most of the West, the U.S. continued to profess diplomatic support for the junta, given Greece’s geopolitical position vis-à-vis the Communist bloc.⁹

When the Greek parliamentary government fell to the right-wing military takeover in May 1967, thousands of political prisoners were taken. Immediate arrests reportedly numbered between 2,500 and 6,000, including most prominent political leaders.¹⁰ Coup leaders imposed martial law, clamping down on civil liberties and using terror tactics against suspected opponents of the new regime. Widespread arrests were made in the name of internal security and moral purification. In a broadly publicized example of purification efforts, the junta ordered mandatory Sunday church attendance for children and, in the schools, outlawed long hair for boys and miniskirts for girls.¹¹ “Beatnik” tourists were banned for a brief period.¹² More ominously, the rules of the state of siege imposed media censorship, prevented indoor and outdoor gatherings, permitted arrest and detention without charge, and replaced all ordinary trial procedures by courts martial.¹³ Thousands of people suspected of leftist sympathies were detained and exiled to island prisons in the Aegean. Two weeks after the coup, the Greek minister of the interior

estimated that 5,180 people were being detained as suspected leftists and militants on the island of Yioura.¹⁴ Reports of torture also began to emerge soon after the coup.

The Scandinavian governments and the Netherlands brought charges against Greece through the Council of Europe. However, torture was not an immediate cause for Greece's condemnation in intergovernmental halls; in fact, the earliest censure of Greece was based on a technicality. Greece's failure to report and justify its state of siege through formal channels violated the terms of its membership in the Council of Europe, opening the way for Sweden, Norway, Denmark, and the Netherlands to file formal charges in September 1967. By failing to justify the state of siege, Greece had technically derogated from its responsibilities under the European Convention on Human Rights, but the charges made no mention of torture or other specific human rights violations.

Amnesty International sent its own mission to Greece in December 1967.¹⁵ Greece was familiar and accessible for the small, relatively resource-poor, London-based organization. According to Stefanie Grant, who organized Amnesty's delegation, AI recognized the need for reliable documentation of the then-unconfirmed accounts of torture.¹⁶ Amnesty International's investigative team—two volunteer lawyers, Anthony Marreco and James Becket—set up a small office in Athens for four weeks, to receive statements from the relatives of people who had been detained and former detainees themselves. The repeated accounts suggested a pattern of severe mistreatment by Greek authorities. On 27 January 1968, AI publicly released Marreco and Becket's report, *Situation in Greece*, which included first-hand accounts of torture.¹⁷ AI also circulated the report to Council of Europe members' foreign ministries.¹⁸

Amnesty International's investigation of Greece served as a catalyst for further European governmental action. The Amnesty report's documentation of torture substantiated less systematic press reports and prompted the Scandinavian governments to add charges of torture to the "Greek Case" in the Council of Europe. The official Scandinavian memo in the case noted that the countries had acquired new information on torture in Greece.¹⁹ AI's *Situation in Greece* headed the list of documentation accompanying the memo.²⁰

Marreco returned to Greece on a second visit for AI with Dennis Geoghegan in March 1968, this time with the official cooperation of the Greek government. His second report, *Torture of Political Prisoners in Greece*, confirmed the earlier findings and was cited in addition to the first report at a follow-up hearing in May.²¹ Reports and private statements from trial observers representing AI and the International Commission of Jurists (ICJ), as well as international press and television reports, supported the allegations at the follow-up hearings.

The new charges alleged not only that torture had occurred, but also that it had been official policy. According to the charges, “the evidence seemed to confirm” that Greek administrative practices “permitted, or even systematically made use of, torture and inhuman or degrading treatment.”²² Further, “complaints confirming torture remained unanswered” as part of a larger pattern, in which “political prisoners and their relatives were subject to constant pressure” and “lawyers were afraid to assume the defence of such prisoners.”²³

Later in 1968, a subcommission of the European Commission on Human Rights published the results of its own investigation, which confirmed and extended Amnesty’s findings from Athens by documenting the use of torture in rural areas.²⁴ The subcommission heard further testimony that year in hearings at Strasbourg, the seat of the Council of Europe, and in Athens in 1969. Marreco, Becket, and Geoghegan testified at the Strasbourg hearings. They were the only witnesses listed who were identified by their NGO affiliations.²⁵ The pursuit of the allegations in the European Commission forced Greece to withdraw from the Council of Europe in December 1969 under threat of expulsion.

The Greek case provides a dramatic example of how information supplied by Amnesty International enabled willing European governments to act on human rights. By comparison, it also demonstrates the poor development of *global* human rights norms. The UN was by no means poised to act on Greek human rights concerns in 1967. However, it was not completely inactive on apartheid. In that context, ECOSOC adopted Resolution 1235 in 1967, authorizing its Commission on Human Rights and the Commission’s main subsidiary body, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities (referred to below as the Commission and the Sub-Commission)²⁶ to “examine information relevant to *gross violations of human rights and fundamental freedoms*, as exemplified by apartheid as practiced in the Republic of South Africa . . . [and] racial discrimination as practiced notably in southern Rhodesia.”²⁷ Despite the specific intent to address racial discrimination, the fact that the language framed the issue in human rights terms permitted a broader interpretation.²⁸

Some NGOs, including Amnesty International and the ICJ, took advantage of the loophole to submit information on Greece, even though official protocol did not permit them to make oral or written criticism of the human rights records of UN member governments in UN proceedings.²⁹ AI submitted its January 1968 report to the UN Commission on Human Rights. Greece defended itself before the Commission by saying that its situation should not be compared to South Africa’s human rights violations, but that the junta had implemented temporary measures to “save a country that was ‘one step from the abyss.’”³⁰ No signifi-

cant action in the UN resulted from the reports on Greece. Indeed, ECOSOC reacted to the NGOs' attempt to widen the application of Resolution 1235 by passing a second resolution, Resolution 1503, to make its human rights reviews confidential.³¹ In 1972, a UN panel did, for the first time, consider submissions on Greece under the procedure specified by Resolution 1503. The panel had been inundated by 27,000 separate human rights complaints in the preceding year on numerous countries. The bulk of information on Greece was submitted jointly by Professor Frank C. Newman, a noted scholar of human rights law who was acting as voluntary legal counsel for Amnesty International, the ICJ, the International Federation for the Rights of Man, the U.S.-based International League for the Rights of Man, and some individuals.³² Although the procedure itself was confidential, Amnesty made the contents of its submission public, and Newman spoke with the press. However, the UN took no further action on Greece.³³ The country returned to democratic rule in 1974.

Although only governments could officially challenge Greece's violation of human rights in the Council of Europe, Amnesty's fact finding placed a specific human rights concern at the core of the European case against the Greek government. But the evidence against Greece met a dead end in the UN Commission on Human Rights, the only global arena that could have censured Greece on human rights grounds.

The fate of the Greek case at the global level points to two conclusions about the global status of human rights norms at that time. First, while the UN was beginning to put pressure on southern Africa, the resolution intended to enable submission of information on "gross violations of human rights" only made a pretense of generality. Both Resolution 1235 and Resolution 1503 were controversial at their inception.³⁴ There was little intergovernmental consensus as to the appropriateness of applying the same general principles to other situations when information became available. Second, merely finding and publicizing information directly to intergovernmental bodies was not sufficient to secure action. Some governments, such as those in Scandinavia and the Netherlands, would act on human rights if they had the right information; many more would not. In general, human rights principles met with spotty acknowledgment and spottier application because corresponding norms were underdeveloped and not well supported by procedures.

Work in the Greek case raised Amnesty's profile among governments and the general public, particularly in Europe. AI also had begun to distinguish itself from the ICRC and the ICJ, the two main globally active rights-related groups with which it had communicated in the previous decade. While the ICJ and the ICRC had stronger ties to international organizations and were better known at the diplomatic level in the 1960s,

neither of those organizations had comparable on-staff research arms or the grassroots membership based in national sections that Amnesty could mobilize on behalf of human rights. In order to insure continued direct access to prisoners, the ICRC conducted prison visits in consultation with governments and presumed confidentiality, unless governments chose to release its reports or released a distorted version of its findings.³⁵ The ICJ, an organization of lawyers with broader concerns pertaining to the rule of law, did not have an ongoing research department or links with the public. Thus, while those three organizations were active on Greece, Amnesty's reporting initiatives in Greece and its ability to coordinate publicity, communication with governments and other NGOs, and sustained research portended its future strengths as an organization.

In these early stages of transnational action on human rights, the NGOs sometimes cooperated to make up for their limitations. For example, circumstantial evidence suggests that AI and the ICJ were able to publicize information that the ICRC was bound not to disseminate. In a joint response to the U.S. ambassador to Greece's claim that the ICRC did not find evidence of systematic torture, the ICRC declined to comment. AI and the ICJ, however, issued a statement saying, "We have evidence that when the Red Cross asked to see prisoners who had allegedly been tortured, they were moved to other prisons to avoid the Red Cross being able to see them." They added that the Greek government had then refused to authorize the ICRC to continue to visit the prisons.³⁶

The Greek case did provide a strong reminder, if one was needed, that despite universal condemnation of torture in the abstract, there were very few international-level checks on torture or other human rights violations as practiced by governments. Conversely, Amnesty's ability to monitor and investigate events in Greece also demonstrated that intergovernmental condemnation of torture could be carried out if governments could be convinced to act. Although AI's reports were not particularly welcome at the UN, the Greek case demonstrated that NGO initiatives on human rights at the intergovernmental level had potential. In other words, while facts alone did not necessarily produce action, there might be untapped potential for facts combined with pressure on the UN to implement the moral principles of human rights.

PHASE II, CONSENSUS BUILDING: THE CAMPAIGN FOR THE ABOLITION OF TORTURE

In December 1972, on the twenty-fourth anniversary of the signing of the Universal Declaration of Human Rights, AI initiated a Campaign for the Abolition of Torture (CAT) that was intended to raise public aware-

ness of torture and the need for stronger international norms. A campaign against torture had the potential not only to create renewed international awareness of torture, but also to revive, deepen, and extend the international normative consensus against it. The campaign, Amnesty's first internationally coordinated publicity and lobbying effort, charted a new course for Amnesty International and for the development of international human rights norms.

The plan for an international campaign against torture originated with AI's International Executive Committee (IEC) under Sean MacBride and Eric Baker's leadership. As already noted, MacBride had been a skilled and energetic coalition builder for Amnesty and in his professional capacity as head of the ICJ. He had broad experience working with NGOs and governments at the UN level.³⁷ Baker, one of AI's founders, had served as interim head of Amnesty for several months after Benenson's resignation. Martin Ennals took over as secretary-general in 1968, and Baker then joined the IEC.

MacBride, Baker, and their colleagues envisioned a unique way to use Amnesty's resources—international public pressure based on information generated by careful research—to press for stronger human rights norms. MacBride wrote in Amnesty's 1971 annual report that “from now on each national section of AI should seek to persuade the government of its own country” to sponsor proposals at the UN that could strengthen Articles 5, 9, 18, and 19 of the Universal Declaration, the articles on torture, arbitrary arrest, detention and exile, freedom of conscience, and freedom of expression, which formed the basic reference points for Amnesty International's mandate. MacBride seemed well aware that such nationally based lobbying could not be promoted by the ICJ and ICRC, which had different members, different working styles, and different mandates, even though they all could agree on the importance of stronger norms to support human rights. In the 1971 report, MacBride noted candidly that the ICRC was “unable and unwilling” to work in such a way.³⁸

Consensus Building through Publicity

The campaign strategy was threefold: it included dissemination of information on the international use of torture; enhancement of international legal means to fight torture; and development of new techniques of action to help victims of torture. In accord with the first part of the strategy, Amnesty initiated an international “information programme” on torture.³⁹ Amnesty planned to publish a thorough, widely distributed report on the worldwide use of torture in order to build public awareness of torture as a problem that occurred worldwide. The publicity was in-

tended both to educate the public and to generate a climate of public support for action on torture. At the same time, Amnesty mobilized its own members to contact their own governments to ask them to support on action against torture in the United Nations.

The core document of the worldwide publicity effort was Amnesty's book-length study, *Report on Torture*.⁴⁰ The report, released 3 December 1973, represented "the first attempt by AI to identify a single problem which was global."⁴¹ It described the characteristics of torture, reported on its global use, and cataloged the status of international legal remedies, maintaining AI's characteristically cautious, understated, objective tone. The researchers had ruled out some information as unreliable; in other cases, information was simply unavailable. For example, the report acknowledged that for several countries "believed to practise torture on a large scale as an administrative policy," information was not included because the facts simply could not be corroborated.⁴² Despite the investigative obstacles, the report was geographically balanced to the extent possible. It chronicled torture and ill-treatment in sixty-one countries, although several Asian countries were missing: China, Thailand, Burma, and parts of Southeast Asia.

Consensus Building on the Need for Norms

In the second component of the campaign strategy, Amnesty advocated the pursuit of changes in international law at the UN in order to shore up the UN's rhetorical commitment to human rights. To that end, AI enlisted the help of experts and the public.

Through a series of regional expert study conferences during the campaign year, Amnesty initiated expert discussions on how to combat torture legally, medically, and politically. For example, Niall MacDermot, who had succeeded Sean MacBride as head of the ICJ, addressed a meeting hosted by AI's British section on the "present laws and remedies, and their inadequacies" with regard to torture.⁴³ In Norway, physicians and mental health professionals gathered to discuss physical and mental aspects of torture. The Belgian AI section hosted a conference on torture's socioeconomic and political aspects. Other meetings took place in West Germany, Ireland, Canada, Mexico, Switzerland, New Zealand, the United States, and Australia. The meetings included representatives of seventy-five different organizations, including the ICRC, the ICJ, the United Nations Economic, Social, and Cultural Organization (UNESCO), the UN Information Office, and numerous religious organizations.⁴⁴

AI's legal efforts were necessarily incremental. If the United Nations could agree on a statement explicitly condemning torture, a small first step, it would be reaffirming the prohibition of torture in the Universal

Declaration of Human Rights. The long-term significance of such a change was unpredictable at the time; it was a fact of life that, like much of international law, its implications would have to be determined through later interpretation and application. Further, governments were unlikely to oppose a symbolic reaffirmation of resolve against torture. AI knew, however, that more ambitious political and legal efforts would have to be built on the earlier steps, meaning that a new UN statement against torture could provide an opening for constructing more specific norms on the basis of reaffirmed moral principles. Through some sort of “continuing international machinery,” said an AI newsletter during the campaign, the organization hoped to “establish the Campaign for the Abolition of Torture as a world concern, thereby breaking through the popular conception that the treatment of the citizen is the concern of the sovereign state alone.”⁴⁵

Legal efforts at the UN took place at the level of government diplomats and legal elites. However, Amnesty planned not to depend on convincing governments through private consultation, an approach twentieth-century NGOs had taken before on sensitive and, for governments, potentially embarrassing issues such as slavery or prison conditions. For Amnesty, members of the public were important participants in the development of norms on human rights, since public opinion mattered to government leaders. Accordingly, AI sought to educate and involve the public in order to support elite-level efforts to develop stronger UN norms.

The main project for members during CAT was a very public campaign for a UN resolution that would be a first official step in articulating global concern about torture.⁴⁶ As part of the drive, Amnesty members gathered one million signatures on a petition, entitled “International Appeal to President of the General Assembly of the United Nations,” imploring the UN General Assembly to “outlaw the torture of prisoners throughout the world.” The singer Joan Baez publicized the opening of the petition drive at a London concert on April 4, 1973, and became its first signatory.⁴⁷ The appeal was delivered to the UN with a certificate signed by the conference officers of AI’s Paris Conference on Torture, attesting to the number of signatories.⁴⁸ Amnesty estimated that the petition was the first contact with Amnesty for most of the individuals who signed it. Signers came from eighty-five countries.⁴⁹ The petition served both as a publicity tool and as a tangible indicator of consensus about the need for UN action on torture.

All of AI’s national sections participated in the 1973 campaign.⁵⁰ Although Amnesty groups at that time often communicated directly with AI’s International Secretariat, London charged the national offices with directing and coordinating the thematic activities on torture in each country. The national sections advised members how to lobby their own

governments to support international action on torture. In CAT and other Amnesty campaigns to follow, recalled Nigel Rodley, AI's former legal adviser, the strategy of enlisting the public in lobbying their own governments enhanced Amnesty's ability to influence governments: "by being a grassroots movement, we essentially had embassies in a large number of countries, . . . which . . . could, and did, approach their governments on our concerns. And not only that, it was not just like any other embassy, but it was an embassy which reflected a constituency in their own countries. So they weren't just talking about this foreign body, Amnesty, to their foreign ministers; they were talking about themselves."⁵¹

CAT thus raised the issue of torture worldwide among governments and the public. The emphasis on using AI members to lobby their own governments fostered the growth of the Amnesty organizations within countries, and helped to build a membership base in each national section. Thus, the publicity efforts of CAT did not only help to build a broader consensus for new legal norms, but they also increased AI's links with the public, governments, and other rights-related groups, and broadened AI's capacity for lobbying.

New Action Techniques against Torture

In the third component of CAT, Amnesty organizers devised practical techniques to help members fight the use of torture. Amnesty's emphasis on the welfare and freedom of individual victims of human rights abuse had not diminished. Thus, AI used the expert conferences and other meetings throughout the campaign to continue searching for concrete techniques that could help protect individuals at the point of arrest and soon afterward. Amnesty needed some way of monitoring, responding to, and, if possible, preventing torture in individual cases, but faced a stiff challenge given the slow pace of its established research and group adoption processes.

The techniques used in preparation for and during CAT built on AI's traditional ways of supporting prisoners. Throughout the campaign, reports on individual countries highlighted the use of torture.⁵² Amnesty's monthly newsletter for members also featured the stories of prisoners of conscience who had been tortured. During Amnesty's annual "Prisoner of Conscience Week," in October 1973, the cases of ten prisoners of conscience who had been tortured were highlighted for increased letter writing by the wider membership in addition to the prisoners' adoption groups.⁵³

Further innovation was required to respond to the individual suffering that resulted from torture. AI members endorsed the need to expand the organization's tactics. At AI's 1973 International Council Meeting,

members endorsed a report on techniques which recommended that the “old” techniques of letter writing and postcard campaigns should be expanded and updated through the use of “publicity and pressure techniques” and the development of “fast-working and effective national lobbies.”⁵⁴ A consensus formed within Amnesty during the CAT year that a swift response was essential to dealing with torture, since torture frequently occurred during the first hours or days of detention. Group adoption took too long to have much effect on the use of torture. Moreover, AI was committed to working against all use of torture, but not all torture victims would qualify for adoption by groups as prisoners of conscience. Edy Kaufman, a scholar from Israel who first became involved with Amnesty during CAT, recalled that Amnesty had learned that “when you work on cases of torture you have to work quickly.” He said that the original idea was to develop a “network of participants” who would send telexes to relevant government authorities when AI received word of individual cases of torture or potential torture—“there were no faxes yet.”⁵⁵

As a result of its discussions, AI developed and implemented an “Urgent Action” network in mid-1974 as a quick-response method. Amnesty sent Urgent Action (UA) bulletins directly to participating AI members, who would immediately muster “cables and express letters from individual participants around the world on behalf of a person known by name who is at risk of being tortured.”⁵⁶ The Urgent Action process bypassed the potentially time-consuming process of investigating a case for potential group adoption. That could come later, if adoption by AI would help the individual. All that was needed to set Urgent Action in motion was a reliable report that a person had been, or might be, tortured.

The process that originated with CAT had potential for use in other kinds of cases. In 1976, AI expanded the scope of the UA technique to address a broader range of situations under AI’s mandate when a quick response by the membership might protect a person.⁵⁷ Now, many Urgent Action participants receive Amnesty’s bulletins via electronic mail and can respond by fax, shortening response time dramatically.

Torture in World Politics: The UN’s Response to CAT and a Coup in Chile

The anti-torture campaign had a noticeable “impact on the media, public opinion, and the sensitivity of governments” to torture.⁵⁸ International interest intensified even further amid reports of a violent coup in Chile against President Salvador Allende’s government in September 1973, just as CAT was in full swing.

Allende’s idealism had drawn international interest in whether his democratic socialist “experiment” would be able to accomplish radical

social change in Chile through democratic means. Despite bitter contestation, Allende's party had managed to maintain its congressional majority at the three-year midpoint of his presidential term in March 1973.⁵⁹ However, the level of behind-the-scenes conspiracy, terrorist incidents, public protests, and counterprotests remained high. Then, on 11 September 1973, the military coup led by General Augusto Pinochet produced an immediate wave of government-sponsored arrests, executions, and disappearances. Allende died during the coup. The violent ouster of the democratically elected president "profoundly shocked international public opinion."⁶⁰

THE EXPERIENCE OF A CHILEAN PRISONER OF CONSCIENCE

A pattern of repression emerged in Chile as a result of the government's strategy, which targeted a wide range of suspected opponents. Coca Rudolfi, a young actress working in Santiago, opposed the coup and was active in the actors' union in Santiago, but did not consider herself any more involved in politics than most of the people she knew. She had been pouring her energy into a nascent acting career. A few months after the coup, she was arrested and tortured without knowing what she had done to draw the attention of authorities.⁶¹

Men dressed as civilians appeared at Rudolfi's apartment one night after the 11 P.M. curfew that had been imposed under the coup. They searched the place, turning everything upside down, and took her away to a military barracks. There, they took her to a small room and made her undress. Rudolfi remembered that she surprised the soldiers by taking off all of her clothes, even underwear, voluntarily—but on the way to the barracks she had sneaked an address that she did not want them to find from her purse into her underpants, and she knew that they would see it if she did not remove everything herself. The men blindfolded Rudolfi and fastened her legs and wrists to a kind of bed with a surface of wooden slats, threatening her with rape. They did not carry through with that threat, but there, for the rest of the night, they touched her private parts and tortured her with electric shocks.

Rudolfi lost consciousness three times during the night of torture. At one point she felt herself having an out-of-body experience; despite the blindfold, she felt she could look down and see her own body in the room and the faces of the men who were torturing her. The seizures produced by the electrical shocks caused her head to thrash against the hard "bed" upon which she was restrained, leaving her with a permanent hearing loss in one ear that eventually required an operation. She remembers thinking that she was probably going to die. But in the morning, the torture stopped, and she was put in a dark cell the size of a small

closet, where she was held in solitary confinement for a week. She was then moved to a women's prison to await her *consejo de guerra*, the military trial to which many political detainees were subjected after arrest in Chile. She later learned that there was a group of about eight actors in her circle who had been arrested at about the same time.

Somehow, through a route unknown to Rudolphi, word of her situation traveled from Chile to London, and a German Amnesty International group adopted her as a prisoner of conscience. Amnesty's records on its adoption cases are kept confidential. However, in keeping with Amnesty's commitment to shining light on human rights violations while protecting the victims, the appeal for Rudolphi's release was broadly public: in October 1974, Rudolphi was included in a group of twelve people from all over the world whose cases Amnesty publicized during its annual Prisoner of Conscience Week.⁶² Prisoner cases featured in wider Amnesty publicity, whether as part of Prisoner of Conscience Week or "Prisoner of the Month," a regular feature of the newsletter at the time, could generate heavy action by the membership. Such efforts were often mounted to boost action in difficult or long-term cases. While in a typical prisoner adoption only one or a few groups would act, a "massive letter-writing campaign" could be set in motion by a special feature.⁶³

During the imprisonment, Rudolphi was unaware of her adoption by Amnesty. She had not even heard of Amnesty International. Her father, a retired Admiral, visited government officials on Coca's behalf to try to speed her release. He was told by a navy captain that there was a "problem" in Rudolphi's case: there were people outside who were making "such a big noise" about her that it was causing "difficulty." Rudolphi's father, who was able to visit her twice weekly once she had been moved to the women's prison, told her on one visit that the officer had said that she should "tell Amnesty International to stop," and that if Amnesty kept making such a fuss, they would not let her free. But there was nothing Rudolphi could do, since AI's adoption campaign seemed to come out of thin air.⁶⁴ Her case was also publicized by smaller solidarity groups in the United States.⁶⁵ Eventually, according to Rudolphi, her father told her that "this pressure, these people outside were making such a big noise that apparently the only thing [the authorities] wanted was to get rid of us in one big trial." Rudolphi and her acting colleagues were brought before a military tribunal, with no stated crime, and were released in early 1975, after fifteen months of confinement.

The Pinochet government regularly made legal arrangements to deport people whose sentences by military courts had been commuted.⁶⁶ Rudolphi was not forced to leave, and did not really want to leave Chile, but she was offered a visa to Britain through Equity, the actors' union.

Her father advised that she go, lest she be detained again, and she decided to accept the visa.

A week after her arrival in London, a fellow exile suggested a visit to AI's headquarters in London. She was curious to see and thank her mysterious guardians, although she still knew almost nothing about Amnesty International or its prisoner adoption process. Staffers stopped their work to celebrate her arrival as soon as she announced herself at the front desk. She recalled their exclamations as she was introduced: " 'You are Coca,' " they said, looking at her as if she were a walking miracle. Only then did she realize that "they had followed everything" about her case. Even though she was an actress, Rudolphi knew of few photographs of herself that might have been publicly available, yet Amnesty had somehow even gotten her picture.

Rudolphi never figured out how her case became known to Amnesty. She gave public talks for Amnesty during her exile in Britain, but her acting opportunities there were limited since English was not her native tongue. She was photographed standing outside Amnesty's London headquarters for a fifteenth-anniversary profile of Amnesty International in the *London Times* in 1976.⁶⁷ When Chile returned to a democratic government in 1990, she was able to return home, and by 1992, she was acting on television in Santiago.

Rudolphi's experience highlights both the strength and the weakness of prisoner adoption, which is still a core activity of many AI members, but was practically Amnesty's only method of public mobilization before CAT. The genius of the adoption method lies in its attention to the individual. Authorities find it difficult to ignore numerous cordial but persistent inquiries about specific prisoners. On the other hand, adoption only works one-person-at-a-time. It was not fast enough to prevent the torture Rudolphi experienced early in her detention. Further, it does not address the sources of widespread patterns of abuse. In contrast, CAT emphasized a categorical prohibition of torture through its focus on norms. At the individual level, AI's new Urgent Action technique expanded both the range of methods for fighting torture and the number of cases AI could take on.

TORTURE IN CHILE

As in Greece, NGOs took the lead in bringing the facts out of Chile. Although delegations from the International Red Cross, the UN High Commissioner for Refugees, and the Inter-American Commission for Human Rights visited Chile almost immediately, Amnesty and the International Commission of Jurists initiated their own investigations as they had done after the Greek coup. Amnesty quickly sent a three-person team

on a week-long investigative mission that began on 1 November 1973.⁶⁸ Its findings of torture, summary executions, and detention without trial were confirmed by an ICJ visit in April 1974. AI sent two more representatives to Chile in the spring of 1974 to observe military tribunals.

While AI's research scope was not yet truly global, its coverage of Latin America was intensifying in the early 1970s. On their early visits, Amnesty and the ICJ established contact with the leaders of the Chilean human rights groups that were forming. One of the first was the Comité de Cooperación para la Paz en Chile (Committee of Cooperation for Peace in Chile, referred to below as COPACHI or Comité), an ecumenical group organized in October 1973. At its core was a small group of Chilean lawyers. Their contacts with outside groups helped get human rights information out to international observers, and this external attention helped to protect the domestic actors. Roberto Garretón, a founding member of COPACHI, recalled almost daily telephone contact with AI, and regular, but less frequent, contact with the ICJ. Amnesty "used to call at nine in the morning," he said. The Comité kept track of arrests on a national scale and helped relatives to prepare petitions of *amparo*, the Chilean version of habeas corpus, to seek information through the courts on the detained and disappeared. The Comité regularly exchanged information with Amnesty about detainees and new arrests, both by phone and by mail. Garretón estimated that about 90 percent of the information mailed from Chile actually arrived at AI headquarters, which he viewed as a fairly high percentage. Nevertheless, "it was a mystery, sometimes, how they knew about arrests," he affirmed. At times, Amnesty had information before he did.⁶⁹

José Zalaquett headed the legal department at COPACHI before he was arrested and exiled in 1975. Zalaquett, who later joined Amnesty's International Executive Committee, recalled his first acquaintance with AI through COPACHI. He was not present when the AI team first visited Chile, but he said, "I remember that Amnesty sent [their] draft report for us to correct it, any mistakes, before they published it, and I was impressed by that . . . we established a working relationship with them whereby we would send them information and they would sometimes funnel, through us, relief money for families. Because they trusted that we would do that in a non-partisan, serious way. And information, support, relationships, and so forth developed over about two years."⁷⁰

The confluence of events in Chile melded with AI's public campaign against torture to spur international interest in torture at the UN in late 1973. At the global level, Amnesty raised the torture issue before the public and government officials using its research for the *Report on Torture* and the ongoing stream of information from its routine contacts with Chile and other countries. The information AI commanded belied inter-

national adherence to the principles articulated in the UDHR and reinforced the need for stronger norms at the global level. Through CAT, AI was engaging governments not just over their practices or treatment of prisoners, but also in direct pursuit of new international legal mechanisms to respond to torture.

Observers widely acknowledged that AI's campaign served as the stimulus for the decision of the sponsoring governments to bring torture before the General Assembly at that time.⁷¹ The Swedish delegation, together with those of Austria, Costa Rica, the Netherlands, and Trinidad and Tobago, submitted the initial resolution. Galvanized by events in Chile, the General Assembly adopted the first UN resolution on torture on 2 November 1973, only two weeks after the Chilean coup. The resolution, adopted unanimously, expressed "grave concern" over the continuing practice of torture, reiterated the rejection of torture expressed in Article 5 of the UDHR, and urged all governments to become parties to international instruments outlawing "torture and other inhuman or degrading treatment or punishment."⁷² UN condemnation of torture at that time was strongly associated with "the expression of world-wide disgust at the brutality of the overthrow of the Allende government."⁷³ Numerous official statements at the UN referred to Amnesty International's initiatives.⁷⁴

Such focus was rare for UN human rights discussions. The resolution itself was introduced under an agenda item not originally intended to permit discussion of specific human rights problems. When the sponsors were criticized for using a general agenda slot to discuss the specific problem of torture, the Dutch delegate replied that directing attention to real problems was "the only way we can ever escape from the abstract vagueness which so often tends to turn our discussions on human rights into academic and frustrating debates."⁷⁵

While the resolution did not commit the UN to monitoring efforts, it paved the way for further consideration of torture by expressing the General Assembly's intention to examine the issue again in the future. Afterwards, torture was brought annually before the UN in a variety of venues, frequently with reference to facts in the high-profile case of Chile. AI was a guiding force behind many of those efforts.

THE PARIS CONFERENCE

The campaign year culminated in the World Conference on Torture, hosted by AI on 10–11 December 1973 in Paris. The conference was to be a summing up of the year's efforts, to include experts, government representatives, AI staff, and Amnesty members. Its purpose was "to establish the strategy for a continuing campaign against torture and to

draw up an effective program to eradicate it.”⁷⁶ However, last-minute governmental trepidation almost wrecked the conference plans when UNESCO, which had contracted to let AI use its Paris headquarters for the meeting, canceled the contract. UNESCO claimed that the *Report on Torture* was a conference document, thus placing the upcoming conference in violation of a UN rule prohibiting direct criticism of member governments.⁷⁷ Sean MacBride blamed the decision on pressure from some governments mentioned in the report.⁷⁸ The French AI section had to scramble to locate a new venue in time for the conference.

Between 250 and 300 invited experts and delegates were divided into four “commissions” for the duration of the conference, each with the task of constructing “detailed proposals on how best to stop the use of torture.”⁷⁹ The commissions were arranged thematically to follow up on and advance the findings of the regional conferences on torture that had preceded the conference. Commission A tackled problems of identifying the persons and institutions responsible for torture. Commission B looked at socioeconomic and political factors contributing to torture. Commission C assessed the legal features of the problem of torture. Commission D was charged with the consideration of medical aspects, both physical and psychological, of torture. The conference recommendations, published in the report of the conference, set AI’s agenda for future norm construction on torture.

In this way, the second, consensus-building phase of norm generation on torture was essentially engendered and defined by Amnesty’s Campaign for the Abolition of Torture and its series of international conferences. AI not only reported on torture, but presented information in the context of a public demand for normative change. AI built consensus about the need for attention to torture through several routes: consultation with experts; collaboration with sympathetic governments and non-governmental organizations; and public pressure. However, as the earlier case of Greece had shown, widespread disapprobation of torture did not produce normative change by itself. From that point on, when a demand for action was implied by the problematic facts, AI stepped in with ideas—and sometimes draft texts—for incremental normative change as part of the solution.

CAT pioneered a way for NGOs to become major players in setting the UN’s human rights agenda. Initially, only AI, a few fellow NGOs, and a limited number of sympathetic governments actively worked for normative change on human rights, but CAT blazed a trail for future attention to torture by creating an international consensus that the problem of torture required norm-building action.

In ensuing years, CAT provided a prototype for AI's campaigns on other human rights problems. Coordinated by an organization that relied on politically nonpartisan, objective investigation, CAT confirmed the potential power of using facts and principles to inform communication with governments and the public over actions previously hidden from public view. CAT also demonstrated the usefulness of planned conferences and workshops to bring officials, activists, and legal experts together to study a human rights problem and formulate a response that could be implemented both at the elite level and through the members. Further, CAT demonstrated that, even in an intergovernmental body like the UN, political will could be mustered to deal with human rights abuses.

Although it was only an early point in the broader time line of norms on torture, CAT is one of the most clearly documented examples of the positive impact of NGO activity on global norm emergence. Theo van Boven, director of the UN Human Rights Division from 1977 to 1982, commented that CAT was a major component of a "process leading to a series of international instruments on the protection of persons subjected to detention or imprisonment in the UN General Assembly."⁸⁰

PHASE III, NORM CONSTRUCTION: BUILDING A NORMATIVE FRAMEWORK FOR TORTURE

Based on recommendations made at the Paris Conference, AI decided to continue its campaign against torture. A major part of its continuing work would now include "[lending] its expertise where possible and relevant to the work of the United Nations to abolish torture."⁸¹ The IEC established the CAT as a permanent department of AI's International Secretariat, to be known as the Campaign Department, early in 1974.⁸² The Campaign Department began as a two-person operation, working with the Research Department and AI's other new department, the Legal Office, not only to further mobilize members of the public on behalf of prisoners, but also to apply AI's knowledge and experience of human rights problems to efforts to develop legal norms at the UN.

The Legal Office at the International Secretariat was, at first, one person: Nigel Rodley had advised AI throughout most of the original campaign after his hiring as legal officer and part-time researcher on North America on January 1, 1973.⁸³ The Campaign and Legal departments, while modest in size, anticipated a global audience, both public and governmental, for Amnesty's concerns. While previously Amnesty's researchers had collected and managed information primarily for the pur-

pose of prisoner adoption, the decision to continue CAT required major adjustments for the Research Department, noted Dick Oosting, a former staff member of AI's Dutch section who joined the International Secretariat staff to establish the permanent Campaign Department in 1974.⁸⁴ In addition to the prisoner work, AI researchers now had to prepare information to be shared more broadly as well as to inform Amnesty's efforts to influence the construction of new norms on torture. The integration of CAT into Amnesty's organizational structure was more or less complete by 1975.⁸⁵

Amnesty stepped up its activity in the UN in tandem with its new goals for CAT and the continuing crisis in Chile. The increasing interaction with the UN required close attention to the annual cycles of the UN calendar. The main human rights body under the UN Charter, ECOSOC's Commission on Human Rights, meets in Geneva during the first three months of the year. Its Sub-Commission on the Promotion and Protection of Human Rights (then known as the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities) meets in August. The Commission makes recommendations to the whole Economic and Social Council, which meets for a week in May and then convenes for a full session in June and July, in preparation for the General Assembly session that lasts from September through December.

Thus, in early 1974 AI submitted to the Commission on Human Rights the report on its November 1973 delegation to Chile. AI and other NGOs also testified on Chile before the Sub-Commission that year. The next autumn in New York, the UN General Assembly adopted a second resolution on torture, which was drawn up by the Netherlands and Sweden in consultation with Austria and Ireland. The Dutch government, especially, had been in close touch with Amnesty on the torture issue. The UN's 1974 resolution concerning torture followed upon the previous year's resolution by emphasizing the need to develop legal recourse and protection for victims. Without naming Chile, the resolution characterized the need for normative remedies as a response to "the increase in the alarming reports on torture."⁸⁶

The efforts to get the UN talking about torture did not stop with resolutions pertaining to the UN's routine annual meetings, however. In a move that drew some criticism at the time for extending human rights concerns to UN bodies outside of the Commission on Human Rights, the 1974 resolution directed the World Health Organization (WHO) and the upcoming Fifth UN Congress on the Prevention of Crime and Treatment of Offenders (referred to below as the Crime Congress) to address the practical issues related to torture that lay within their purview.⁸⁷ In the resolution, General Assembly directed WHO to draft a code of medical ethics for the treatment and protection of prisoners against

torture. The General Assembly directed the quinquennial Crime Congress, whose next meeting was approaching in 1975, to consider adding a prohibition against torture to the Standard Minimum Rules for the Treatment of Prisoners, which had been adopted at the first Crime Congress in 1955, and to develop a new code of ethics for law enforcement personnel.⁸⁸

The use of technical conferences within the UN system to develop ethical and professional standards for law enforcement officials and medical professionals was Amnesty's idea.⁸⁹ AI staff and the other participants in the CAT year's conferences on torture were familiar with the detention conditions in which torture takes place. Certain occupational groups—doctors, police, prison officials—were most likely to have contact with detained persons. That is why AI's Paris Conference had recommended the articulation of standards that, in practical ways, could prevent or mitigate torture and other cruel and maltreatment by medical practitioners and law enforcement officials. UN endorsement would add legitimacy to such standards, which could potentially form important legal reference points for the conduct of any government's civil servants. And, not to be overlooked, UN articulation of such standards would give Amnesty International yet another basis for putting pressure on governments in the fight against torture.

The 1974 General Assembly resolution therefore offered a new opening for the development of international legal standards on torture, although their substance was yet to be determined. With that in mind, AI prepared assiduously for the Fifth Crime Congress, drafting written proposals and organizing preparatory seminars for law enforcement officials and interested NGOs and governments. In its work preparatory to the Crime Congress, AI occupied—especially for that time—an unusually prominent position for an NGO working with sympathetic governments. A law enforcement–ethics conference in the Hague for Western European police officers prior to the Crime Congress was cofinanced by the Dutch government and law enforcement unions, and cosponsored by AI's International Secretariat and the Dutch AI section.⁹⁰ The "Declaration of the Hague," drawn up at the AI-sponsored conference, was presented by the Netherlands for consideration at the Crime Congress and became one of two main working documents there.⁹¹ It contained ethical principles for law enforcement officers, including the right to disobey orders that contradicted principles of human rights and the duty to disobey orders to torture, execute, or otherwise harm a person in custody. AI and the International Commission of Jurists also collaborated to draft a code of ethics for lawyers prior to the Crime Congress.⁹²

AI sent its secretary-general Martin Ennals, legal adviser Nigel Rodley, CAT organizer Dick Oosting, the president of AI's French section, and

two other representatives to the 1975 session of the congress.⁹³ They lobbied governments and participated to the full extent permitted by UN conference rules. Amnesty submitted sixteen pages of recommendations, including a proposal that the congress ask the UN General Assembly to declare torture to be a crime under international law. AI distributed the proposals directly to fifty governments prior to the congress and asked AI national sections to press their governments to support the proposals in the UN.⁹⁴ As part of the official program, Amnesty also held two seminars during the congress to discuss legal, ethical, and professional aspects of torture and prospects for strengthening the Standard Minimum Rules for the Treatment of Prisoners.⁹⁵

The Crime Congress demurred from adopting any proposals on professional conduct, but recommended that the General Assembly appoint a committee to study the matter. At its session later in 1975, the General Assembly directed the ongoing UN Committee on Crime Prevention and Control (referred to below as the Crime Committee) to do so.

Amnesty wanted to influence the content of the code with regard to torture. It submitted a statement to the Crime Committee pointing out what it felt were the “most salient features” of the Declaration of The Hague—the declaration that had been drawn up at AI’s cosponsored conference—for the committee’s consideration.⁹⁶ Language in the Declaration of The Hague, for example, addressed not only civilian police, but members of other kinds of security forces that may be involved in arrest and detention in some countries.⁹⁷ This broadened language, which found its way into the UN code, was important because security forces frequently became involved in torture of prisoners.

Over a period of years, the Crime Committee drafted what became the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly on 17 December 1979.⁹⁸ According to one source, Rodley and Margo Picken worked alongside the committee on the draft.⁹⁹ At several points, the code incorporates principles from the Declaration of The Hague, although all of Amnesty’s concerns were not addressed, as Rodley has pointed out elsewhere.¹⁰⁰

The same strategy helped to translate the consensus developed earlier among experts and NGOs into UN standards on the medical front. For its part in following up on the 1974 General Assembly resolution, the WHO cooperated with the two nongovernmental professional groups, the World Medical Association and the Council for International Organizations of Medical Sciences, to draft “Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment,” which was adopted 18 December 1982 by the General Assembly.¹⁰¹

The Declaration on Torture

The 1975 Crime Congress spent most of its time sowing seeds for more general norms in the form of a draft UN declaration against torture. A working group met at the outset of the congress to plan for how further to carry out the General Assembly's 1974 resolution to explore legal protection for victims of torture and to create guidelines for professionals in contact with detainees. The working group was "informal" in the UN sense, meaning that participation was open not just to governmental participants but to relevant NGOs with consultative status who, in contrast, could only be observers at the formal sessions. This meant that Amnesty International could, and did, participate actively.¹⁰²

Members of the working group agreed that a more authoritative articulation of the Universal Declaration of Human Rights' prohibition of torture was needed, to provide a "cornerstone" for "any action within the United Nations structure to combat this evil."¹⁰³ The working group therefore commenced work on a draft of a proposed UN declaration against torture to be forwarded to the UN General Assembly for consideration. If adopted, a declaration would become a strong recommendation that, technically, would not be legally binding, but would at the same time confer the presumption of obligation on all members of the United Nations. Declarations are understood to have a stronger hortatory force than simple resolutions, and declarations often form the basis for follow-up work to elaborate a binding convention, or treaty. Hans Danelius, a Swedish diplomat and lawyer who was then under-secretary for legal and consular affairs of the Swedish Ministry of Foreign Affairs, authored the initial draft of the declaration that became the basis for discussion.¹⁰⁴

The informal working group delegated its task to an ongoing drafting group, also "informal" and open to all members of the informal working group, that would continue drafting discussions for the duration of the congress. Nigel Rodley attended for AI. According to Oosting, "the Swedish government took it upon itself to initiate the drafting process and we, as it were, fed into that, texts, and bits of texts, and, and our own ideas, and pushed them back and discussed them to see what was compatible . . . with their assessment of what was, in the end, possible to get through."¹⁰⁵

The draft declaration was adopted by the congress and sent to the General Assembly for consideration. AI again organized support for the declaration through its national sections and through other NGOs with UN consultative status before the declaration was to come up for a vote in the United Nations.¹⁰⁶ AI's secretary-general, Martin Ennals, together with Andrew Blane, of AI's International Executive Committee, lobbied UN delegations in New York before the vote.¹⁰⁷ The draft was officially

adopted by the General Assembly on 9 December 1975, as the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁰⁸

For the first time, this declaration provided a definition of torture in international instruments. Substantively, the declaration reaffirmed the gravity of torture as a violation of human rights, and proposed specific actions that states should take to prevent torture. It did not explicitly classify torture as an international crime, as AI had originally wished. The Crime Congress, in creating the resolution to explore international legal protection for victims of torture, recognized that although a declaration would be an important step in outlawing torture, an international convention against torture was the ultimate goal.¹⁰⁹

The structure of the UN Crime Congress and the Crime Committee in this period kept discussions somewhat sheltered from the political conflicts that plagued UN organs more directly connected to the human rights mandate. The geopolitical divides that could obstruct the Commission on Human Rights were only latent at the Crime Congress, and the state representatives to the Crime Congress were, in general, national-level bureaucrats and experts on techniques of law enforcement. They did not necessarily bear the diplomatic mandate to place national interests in the balance as they considered the impact of human rights issues.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

While negotiations over a declaration began with a degree of unity about what should be included, work on a binding norm against torture began with several competing drafts. As it had done for the declaration, the Swedish UN delegation initiated work on a convention by organizing broad cosponsorship of an authorizing resolution that was adopted by the UN General Assembly in December 1977. Danelius then authored and submitted a preliminary draft to the Commission on Human Rights on 18 January 1978. His draft was based largely on the declaration, with some additions.¹¹⁰

However, a separate, NGO-sponsored draft was already in circulation. The International Association of Penal Law (IAPL) had submitted a draft prepared in consultation with AI and the ICJ on 15 January 1978. Numerous experts on torture had been consulted in the preparation of the IAPL draft, which was more focused and more demanding than the Swedish draft.¹¹¹ For example, the IAPL draft had no statute of limitations for the crime of torture, and focused only on torture, while the Swedish draft considered “other cruel, inhuman or degrading treatment or punishment.”¹¹² A third NGO-sponsored draft also circulated. Au-

thored by Jean-Jacques Gautier of the Swiss Committee Against Torture (SCAT), it primarily addressed the inspection of places of detention.

For NGOs, negotiation to avoid the distracting presentation of competing drafts in an intergovernmental forum was imperative, both strategically and politically. The very process of agreement on a starting draft could waste valuable time in the UN calendar. Moreover, although NGOs could participate in consideration of the drafts at the Commission, disagreement about priorities could dilute their influence. The secretary of SCAT, François de Vargas, later reflected that “this multiplicity was . . . unfortunate because of the dispersal of efforts which it provoked.”¹¹³

All three drafts were discussed at an NGO meeting of experts in Switzerland in the summer of 1978.¹¹⁴ Prior to the NGO meeting, Niall MacDermot, the head of the ICJ, proposed that the SCAT draft be tabled and considered later, as an optional protocol to the full convention. Gautier agreed. In the end, the Swedish draft served as the basic document in the drafting process, and parts of the IAPL draft were incorporated.

The official drafting discussions began in March 1979 in Geneva. In consecutive years until 1984, an open-ended working group met in tandem with the Commission on Human Rights for one week prior to each session of the Commission and with occasional meetings during the sessions. Under Commission rules, “open-ended” meant that any of the governments represented on the Commission could attend, and consultative NGOs or other states could participate as observers. (The Commission had a rotating membership of thirty-two states from 1978–79 and forty-two from 1980–84.) Thus, NGOs had relatively free access, if not at the level of member states.

Amnesty had preferred stronger language than that of the Swedish draft chosen as the basic negotiating document. Perhaps for this reason, Amnesty exercised a “more limited role” in the drafting of the Convention against Torture than it had during work on the declaration.¹¹⁵ Still, AI and ICJ took “an active part” as NGOs in the working group, while only twenty or thirty member or observer states were usually present.¹¹⁶ Decisions in the drafting group were made by consensus.

In line with AI’s allegiance to principles as opposed to the practical efforts of governments to limit their obligations, Amnesty emphasized the preservation of existing standards while making the convention as strong as possible. AI’s representatives exercised an informed watchdog role, aware that small turns of phrase could eventually be used to open or close loopholes of state accountability. For example, Jan Herman Burgers and Hans Danelius recalled that during the 1983 session, AI objected to the preamble phrase that ostensibly indicated states parties’ desire “to convert the principles of the Declaration into binding treaty obligations and to adopt a system for their effective implementation.”¹¹⁷

Such a phrase could be interpreted as implying that the declaration on its own was not binding. While that would have been true, technically, since the declaration was not treaty law, to compare the declaration implicitly to treaty law could vitiate its customary force, which by then was indeed almost universally accepted (and which AI referred to repeatedly in its work on torture). To eliminate ambiguity, the drafters settled upon final wording that cited the international community's desire to "make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment."¹¹⁸

Amnesty's otherwise substantial role in constructing norms on torture was circumscribed by UN rules. In informal UN meetings and in nongovernmental meetings, Amnesty played an active preparatory role and was a close consultant in the drafting process. However, during the formal, official portions of the drafting process, small, neutral, and committed government delegations exercised the greatest leadership, often aided in their efforts by NGO expertise, lobbying, and information. The Netherlands and Sweden were critical links between nongovernmental and intergovernmental arenas in the construction of norms on torture. In this way, AI took on an indirect role when norm construction became official.

The political neutrality of Sweden and the Netherlands, like the third-party status of Amnesty, made them effective facilitators of international norm generation at the governmental level. For example, Sweden consulted with governments behind the scenes to initiate the call for a convention in the General Assembly and ensure that a resolution to that effect would pass. Sweden's representative, Hans Danelius, had also held informal consultations on the draft with interested government delegations after the initial drafting session in 1979.¹¹⁹

Sweden's brokering status permitted it to help solve the question of how treaty compliance should be monitored. Agreement had been difficult during the first four meetings of the drafting group.¹²⁰ The solution was to establish a monitoring body, the Committee against Torture, that would not only receive reports from countries that accepted the treaty, but could also investigate reports of the systematic use of torture. In addition, NGOs were empowered to submit such reports to the monitoring body.

Amnesty later celebrated the innovation for giving NGOs access to the supervisory process. Nigel Rodley, speaking for AI, emphasized the potential for NGO contributions to intergovernmental organizations: "Certainly, the evidence is, in terms of many other international human rights mechanisms[,] that non-governmental organisations that do have the possibility of initiating action by such organisms have been able to contribute mightily to the activities of those organisms."¹²¹ What he did

not say was that his own organization had helped create and maintain the channels through which such contributions had been made.

Meanwhile, a draft text of an Optional Protocol to the convention, which would strengthen the enforcement measures of the treaty for the states that chose to sign on, was formally submitted to the UN Commission on Human Rights on 6 March 1980 by the government of Costa Rica. The draft had been developed by the ICJ and SCAT, based on SCAT's tabled convention draft of two years earlier. The SCAT proposal's enforcement measures exceeded those in other international treaties, while the enforcement measures contained in the convention draft chosen for debate were based on similar procedures found in existing conventions.¹²² That similarity was considered a strength, since parallel treaty procedures might be more immediately acceptable to states. To avoid delaying the adoption of the convention itself, consideration of the Optional Protocol was postponed again until after adoption of the convention.¹²³

By the early 1984 drafting session the draft convention was more or less complete. In a brokering role similar to that played earlier by Sweden, the Dutch chair of the drafting group, Jan Herman Burgers, consulted informally with government delegations to resolve remaining questions and prepare a report, which included the draft convention, for the whole Commission on Human Rights to consider that same session.¹²⁴

It highlights the importance and efficacy of the NGOs and state "brokers" to note that the superpowers were not particularly supportive of the convention. Although the United States participated in the drafting committee of the Commission and strongly advocated the principle of universal jurisdiction, it never became a cosponsor, nor did it sign the convention immediately after it was opened for signature. More pointedly, the USSR led a group of countries that wanted to allow signees not to recognize the supervisory authority of the Committee against Torture, often referred to as "supervisory competence," described in Articles 19 and 20 of the draft convention.¹²⁵ During debate before the Commission, NGOs continued to demand nonoptional implementation mechanisms. The secretary-general of the ICJ urged agreement on supervisory competence. He pointed out that although the USSR had rejected on principle "any attempt by intergovernmental organisations to concern themselves with . . . violations," the USSR had recognized in its statements on Chile that the UN had the authority to inquire into cases of "gross and systematic" human rights violations, as outlined in Resolution 1503. The ICJ statement drew an analogy between the principle underlying Resolution 1503 and Article 20 of the Convention on Torture, arguing that the practical difference was only that "Article 20 is more informal and more speedy and therefore better adapted to the international crime of torture."¹²⁶ Addressing the commission on the same day, AI's secretary-gen-

eral Thomas Hammarberg stressed the importance of effective enforcement power for the convention given Amnesty's knowledge of torture: "All governments are nowadays prepared to state that they oppose torture . . . [but] while government after government condemns that practice, Amnesty International and other non-governmental organizations continue to receive alarming testimonies on what goes on in the interrogation centres in country after country. . . . Not only is torture widespread. It is also systematic in many countries."¹²⁷

The Netherlands' delegate, Alphons Hamer, led the sponsors in making a crucial compromise, conditional upon the withdrawal of other amendments, that allowed countries to declare upon signature or ratification that they did not recognize the committee's authority to supervise compliance with the treaty. The draft of the convention was adopted in the Commission without a vote on 6 March 1984.

To summarize, for torture, formal norms were built and strengthened sequentially, starting with indications of concern in UN resolutions and continuing with a more formal declaration, professional guidelines, and finally the Convention against Torture, which is legally binding for the countries that sign it. These formal norms serve as markers of international agreement about the reprehensibility of torture, but wide application and behavioral acceptance of the principles behind the norms is still needed. In applying norms on torture, Amnesty has played a continuing role. In the case of the draft convention, Amnesty began to call for a stronger enforcement capability as the convention went forward from the Commission to be considered by the General Assembly.

PHASE IV: NORM APPLICATION, PUSHING FOR PRACTICAL SAFEGUARDS AGAINST TORTURE

Once the drafting was completed, AI began publicity efforts to support the passage of the convention by the wider UN. In April 1984, the month after the convention draft was adopted by the UN Commission on Human Rights, Amnesty International launched a second Campaign for the Abolition of Torture. Concurrently, AI published the book-length report, *Torture in the Eighties*, which reported on the global incidence of torture from the beginning of 1980 through mid-1983. Approximately a decade had passed since the origination of CAT.

The outsider identity of Amnesty allowed it to remain a steadfast voice advocating the principles behind the norms that were being constructed even as it mobilized support for the convention. In the introduction to *Torture in the Eighties*, Amnesty actually criticized the draft convention. Welcoming stronger norms in principle, Amnesty outlined the points it

held to be “essential” for the draft convention on torture about to be considered by the General Assembly.¹²⁸ Since AI would not be able to speak or take part in the government negotiations in the General Assembly, it was now essential that Amnesty influence the debate over a binding convention by eliciting international public pressure and educating the General Assembly members.

The discussion of the convention in Amnesty’s new campaign report presented a principled counterpoint to the compromises in evidence in the convention’s final draft. AI used the report to address an expanded, public audience, following its consultation with governments responsible for the official construction of norms. Amnesty’s familiarity with the drafting discussions informed its criticisms of the weak points of the proposed convention.

Amnesty’s criticisms covered four main issues. First, AI said that the unqualified use of the phrase “lawful sanctions” in Article 1 was a loophole for governments, since a government might legislate punishments that might otherwise qualify as torture or other cruel, inhuman, or degrading treatment. Second, AI called for universal jurisdiction involving “no safe haven for torturers.”¹²⁹ Third, the convention wording did not make its breadth of application explicit. AI urged that *all* articles of the convention apply to torture and other mistreatment. Finally, echoing the comments that the ICJ had made before the commission, AI called for effective, nonoptional implementation mechanisms. In the body of the report, AI invoked the standards against torture that had already been developed internationally, many of which it had helped to create. As part of the campaign, Amnesty also publicized its own “Twelve-Point Program for the Elimination of Torture,” a list of recommended actions for governments that prescribes a range of measures such as “safeguards during interrogation and custody” (Point 4) and “ratification of international instruments” (Point 12).¹³⁰

Meanwhile, at the General Assembly, the Netherlands delegation again made sure that the convention survived debate. Within the Third Committee of the General Assembly, to which the draft convention was assigned, some governments wanted to postpone further consideration of the proposed convention on torture. The Netherlands, a newly democratized Argentina, and Sweden cooperated to advance a proposal for adoption before the sentiments for postponement could gel into firm stands.¹³¹ They were eventually joined in sponsoring the resolution for adoption by nineteen delegations.¹³² Amnesty’s statement at the next year’s meeting of the Sub-Commission on Prevention of Discrimination and Protection of Minorities called for ratification of the convention as a matter of urgency.¹³³

Special Rapporteur on Torture

After the progress in the creation of formal norms on torture, there still was no formal way for the UN to monitor torture everywhere. The convention would impose a reporting requirement, but only on the signatory countries. The UN Human Rights Commission had sometimes appointed a special expert, called a special rapporteur, charged with monitoring countries experiencing human rights trouble. In the early 1980s, there was an innovation: the monitoring concept was extended to apply to particular problems occurring all over the world, such as disappearances and extrajudicial executions.¹³⁴ The special procedures, now referred to as “thematic mechanisms” for their focus on categories of human rights problems rather than on countries, have since proliferated in the UN system.¹³⁵ Soon after the completion of the UN convention, the idea was broached to establish a Special Rapporteur on Torture.

Amnesty International, the Netherlands, and Sweden, described by one commentator as the NGO “godmother” and diplomatic “godfathers” of the convention, had some private doubts when the director of the UN Centre for Human Rights suggested that torture needed its own thematic monitoring mechanism, according to the Dutch international lawyer who became the first special rapporteur on Torture.¹³⁶ After years of work for a binding treaty, they wanted to see as many countries as possible ratify it as soon as possible. A certain number of ratifications were necessary before the treaty could enter into force, and all other things being equal, there was some question whether establishing a special rapporteur as a separate mechanism would delay ratification, perhaps by reducing the perceived need to sign on to a binding treaty.¹³⁷ An argument for a special rapporteur, however, was precisely that the convention would take some time to enter into force,¹³⁸ and the kind of monitoring the special rapporteur could provide was not covered by any existing human rights mechanism.

The latter arguments proved persuasive, and Amnesty became a strong supporter of the establishment of the Special Rapporteur on Torture.¹³⁹ At the next session of the Commission on Human Rights, in May 1985, the Commission created this position,¹⁴⁰ which was, in effect, a new universal monitoring mechanism.¹⁴¹ Right away, AI emphasized the preventive possibilities for the new post in its UN statements. While the special rapporteur is not a permanent office, its mandate has been renewed regularly since 1985. Unlike the treaty bodies, which simply receive reports at regular intervals, the special rapporteur can make immediate inquiries to governments as soon as allegations of violations are received. The special rapporteur may also visit the countries of inquiry, which is essential for direct investigation and permits direct UN contact with sen-

ior government officials.¹⁴² Menno Kamminga, a former member of Amnesty's Legal Department, wrote in a scholarly article that "human rights workers welcomed the fact that violations could be more easily exposed," while "oppressive governments appreciated the fact that they were not the only ones to be singled out for criticism."¹⁴³

The thematic strategies, which do not depend on a binding treaty for their validity, have reinforced the declaratory norms against human rights violations by creating a means for official UN action based on the collection and interpretation of facts in light of norms. Some of the procedures for UN communication with governments echo AI's Urgent Action technique.¹⁴⁴

The mandate of a special rapporteur is not highly specific as to exactly what procedures should be followed, so that the strength of the position depends to a great extent on the individual who holds the post. An active individual in the post can broaden the effective mandate. A weak special rapporteur will likely be ineffectual, as has happened occasionally with country rapporteurs. For the thematic mechanisms, however, capable and NGO-friendly experts have often been appointed. The second Special Rapporteur on Torture, appointed in 1992 and still serving as of 1999, was Nigel Rodley, AI's former legal adviser who was centrally involved in standard setting on torture, starting with the UN Declaration against Torture.

Optional Protocol to the Convention

UN consideration of the Optional Protocol to the Convention against Torture, which would offer stronger implementation of the convention through regular visits by UN experts to detention centers, had been postponed during the construction of the convention. It was not forgotten. The UN Special Rapporteur on Torture recommended the adoption of such a system in his second annual report in 1987, as a preventive mechanism.¹⁴⁵ But since, in November 1987, a similar mechanism in the European system was opened for signing as part of the European Convention against Torture,¹⁴⁶ the UN Human Rights Commission adopted a wait-and-see approach, hoping to observe how well the European system of investigation operated before taking further action on the Optional Protocol.

The Optional Protocol was modeled on the work of the International Committee of the Red Cross. The ICRC's visits to Greece in 1971 and to Iran in 1977-78 were cited explicitly by the ICJ as having had the effect of reducing torture in those countries. In the case of UN inspections under the protocol, the experts would report confidentially to governments, but the Optional Protocol reserved the right for the committee

to publish its findings if they were not accepted in good faith by the government itself. This last provision, in theory, would provide an incentive for swift remedial action by offending governments upon receipt of findings of torture.¹⁴⁷

Amnesty joined arguments in favor of the protocol. Arguing before the Commission in 1992, AI argued that there was no need to wait any longer, since “the European Committee for the Prevention of Torture[’s] . . . vigorous and thorough work is already well accepted . . . and its detailed working practices could serve as a useful model for a universal system.”¹⁴⁸ Progress has been slow, but AI and other NGOs have participated in the Commission’s open-ended working group to develop the draft, which as of this writing has continued to meet for yearly sessions since its establishment in 1992.¹⁴⁹

CONCLUSION: A TEMPLATE FOR NORM EMERGENCE

Amnesty International provided a driving force behind the emergence of norms on torture. One government official involved in the construction of norms against torture reflected that AI served as the “starting motor that brought the whole process [of the UN consideration of torture] into being.”¹⁵⁰ Without the antitorture campaign of AI, he said, there would have been no UN Convention against Torture.¹⁵¹

The Campaign for the Abolition of Torture was a new kind of endeavor for AI, and its success provided a blueprint for the emergence of norms in the United Nations. The fact that torture was a hidden practice and a serious charge to level against governments required uncompromising standards of informational accuracy. AI’s traditional technique relied on addressing governments about specific cases. Thus, when it took on torture, it had to be able to confirm the likelihood or threat of specific instances of torture. For to propound poorly founded allegations in communications from its membership to government officials would impugn AI’s credibility and endanger its ability to come to the aid of torture victims.

Understanding the recent history of norms against torture in light of the campaigning techniques forged by AI suggests that NGOs can become influential as third parties in the creation of sets of international norms. Consistent and persistent loyalty to their causes becomes a component of their effectiveness, but political and geographical impartiality also matter with respect to application of their proposed normative agenda. Such characteristics enhanced AI’s legitimacy in the fact-finding and consensus-building phases of norm emergence. AI’s research served as both an informational resource and the bulwark of its reputation for independence and impartiality, enabling Amnesty to influence and build

on consensus about the need for norms in the light of politically high-profile cases. In calling for action in real cases of torture, Amnesty occupied the moral high ground, in that it was invoking a principle that had already been accepted in the Universal Declaration on Human Rights. Amnesty could not be as directly involved in actual norm construction because of the difference in authority between NGOs and states at the international level. Technical expertise mattered most during the norm construction phase, when NGOs had to work with governments to achieve new formal norms. The contacts formed with elites during consensus-building activities also enhanced Amnesty's ability to promote norm emergence. In the final phase, norm application, governments learned from the techniques developed by NGOs in their struggles to promote human rights. Fact finding, impartiality, and independence took on new salience once new norms were drafted; as newer cases could then be framed in light of the norm endorsements already accomplished. Human rights violations, illuminated in large part through NGO-generated information, could then be interpreted by way of stronger international norms.

38. See Hart, *The Concept of Law*.

39. Bull, *The Anarchical Society*, 13. (Emphasis added.)

40. Michael Walzer, *Just and Unjust Wars* (New York: Penguin, 1977), 54.

41. Schwelb, *Human Rights and the International Community*, 65.

42. P. H. Kooijmans, "Human Rights—Universal Panacea?" *Netherlands International Law Review* 37 (1990): 317.

43. E. W. Vierdag, "Some Remarks about Special Features of Human Rights Treaties," *Netherlands Journal of International Law* (1994): 128.

44. For example, the Code of Conduct for Law Enforcement Officials, described in Nigel Rodley, *The Treatment of Prisoners under International Law*, 2nd ed. (Oxford: Clarendon, 1999), 355–68; and the UN's *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary, and Summary Executions* (New York: UN Publications, 1991), discussed in chapter 5.

45. Jürgen Habermas, *Between Facts and Norms* (Cambridge, Mass.: MIT Press, 1996), 370.

46. Rodley, interview.

47. Picken, interview.

48. For a "spiral model" of the impact of human rights norms on individual countries, see Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, eds., *The Power of Human Rights* (Cambridge, U.K.: Cambridge University Press, 1999).

49. For example, see the conflict between NGO "networkers" and "lobbyists" described in Clark, Friedman, and Hochstetler, "Sovereign Limits of Global Civil Society."

CHAPTER THREE

TORTURE

1. Rittberger, "Research on Regimes in Germany," 10–11.

2. Nigel Rodley, "The Development of United Nations Activities in the Field of Human Rights and the Role of Non-Governmental Organizations," in *The US, the UN, and the Management of Global Change*, ed. Toby Trister Gati (New York: New York University Press, 1983), 264.

3. Buergenthal, *International Human Rights in a Nutshell*, 87–88.

4. See Rodley, *Treatment of Prisoners*, 18–19. This and subsequent references are to the 2nd (1999) edition, unless otherwise noted.

5. Barry M. Klayman, "The Definition of Torture in International Law," *Temple Law Quarterly* 51 (1978): 452; Nehemiah Robinson, *The Universal Declaration of Human Rights: Its Origin, Significance and Interpretation* (New York: Institute of Jewish Affairs, 1950), 42–43.

6. See Donnelly, *Universal Human Rights*, 224–25.

7. AI, *Annual Report 1966–67*, 5.

8. AI, *Annual Report 1967–68*, 2.

9. Van Coufoudakis, "Greek Foreign Policy, 1945–1985, Seeking Independence in an Interdependent World," in *Political Change in Greece before and after the Colonels*, ed. Kevin Featherstone and Dimitrios K. Katsoudas (New York: St. Martin's, 1987), 233.

10. Peter Schwab and George D. Frangos, *Greece under the Junta* (New York: Facts on File, 1973), 15.
11. Henry Kamm, "Leader Uncertain If 'the New Greece' Needs a Parliament," *New York Times*, 4 May 1967, 1.
12. Schwab and Frangos, *Greece*, 20–21.
13. *Ibid.*, 14–15.
14. Kamm, "Leader Uncertain."
15. AI, *Torture in Greece: The First Torturers' Trial, 1975* (London: AI Publications, 1977), 11.
16. Grant, interview.
17. Excerpted in AI, *Torture in Greece*, 79–82.
18. Grant, interview; AI, "The Greek Mission," in *Amnesty International Annual Report 1967–68* (London: International Secretariat, 1968), 6.
19. Council of Europe, European Court of Human Rights, *The Greek Case, Yearbook of the European Convention of Human Rights 1969* (The Hague: Martinus Nijhoff, 1972), 21, para. 43.
20. Council of Europe, "Documentary Evidence Relating to Article 3: Documentary Evidence Submitted by the Applicant Governments," Annex I.B.1, 11, in Council of Europe, European Commission of Human Rights, *The Greek Case, Report of the Commission* (Strasbourg, bound typescript, n.d.). See also J. D. Armstrong, "The International Committee of the Red Cross and Political Prisoners," *International Organization* 39 (1985): 638–39.
21. See "Decision of the Commission as to the admissibility of certain new allegations made by the governments of Denmark, Norway, and Sweden in the proceedings concerning: Application no. 3321/67 by the government of Denmark against the government of Greece; Application no. 3322/67 by the government of Norway against the government of Greece; Application no. 3323/67 by the government of Sweden against the government of Greece; Application no. 3344/67 by the government of the Netherlands against the government of Greece: Decision of the European Commission of Human Rights (31 May 1968)," in Council of Europe, European Commission of Human Rights and European Court of Human Rights, *Yearbook of the European Convention on Human Rights 1968* (The Hague: Martinus Nijhoff, 1970), 748.
22. *Ibid.*
23. *Ibid.*, 750.
24. Council of Europe, "Introductory Report on the Situation in Greece by Mr. van der Stoep," Council of Europe Doc. 2384, 23 September 1968.
25. "Annex III: List of Witnesses Heard by the Sub-Commission under Article 3 of the Convention," in Council of Europe, *The Greek Case* (Strasbourg, n.d.).
26. In 1999, the UN Economic and Social Council changed the name of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to the Sub-Commission on the Promotion and Protection of Human Rights. Below, the Sub-Commission is referred to by its name at the time of the events being discussed.
27. UN ECOSOC Res 1235 (XLII), 6 June 1967. Emphasis added.

28. Nigel Rodley, "UN Non-Treaty Procedures for Dealing with Human Rights Violations," in *Guide to Human Rights Practice*, 2nd ed., ed. Hurst Hannum (Philadelphia: University of Pennsylvania Press, 1992), 64.

29. *Ibid.*

30. Sam Pope Brewer, "Greece Accused in U.N. of Terror," *New York Times*, 21 February 1968, 16, col. 4.

31. See discussion of the circumstances surrounding the creation of the confidential "1503 procedure," UN ECOSOC Res. 1503 (XLVIII) of 27 May 1970, in Rodley, "The Development of UN Activities," 273–74, and William Korey, *NGOs and the Universal Declaration*, 127–30. The confidentiality restrictions lasted for several years, but were loosened after a little less than a decade. The review procedure instituted by Resolution 1503 has evolved into one that is now used frequently by NGOs.

32. Kathleen Teltsch, "UN Unit Said to Report Greeks Violate Human Rights," *New York Times*, 21 September 1972, 18.

33. William Korey, *NGOs and the Universal Declaration*, 129.

34. Kamminga, *Inter-State Accountability*, 84.

35. Duncan Forrest, Bernard Knight, and Morris Tidball-Binz, "The Documentation of Torture," in *A Glimpse of Hell: Reports on Torture Worldwide*, ed. Duncan Forrest (New York: New York University Press and Amnesty International, 1996), 169. A discussion of the ICRC's style with regard to publicity and other matters appears in Forsythe, "Human Rights and the International Committee of the Red Cross," 278–84.

36. "Two Groups Accuse Greece on Torture," *New York Times*, 18 October 1972, 12, col. 4.

37. MacBride's influence in NGO coalition building at the UN is documented and discussed in Howard Tolley, "Popular Sovereignty and International Law: ICJ Strategies for Human Rights Standard Setting," *Human Rights Quarterly* 11 (1989): 562–65.

38. Sean MacBride, "Introduction" to AI, *Annual Report 1970–71* (London: International Secretariat, 1971), 4.

39. "Campaign for the Abolition of Torture," *Amnesty International Newsletter* 3, no. 2 (February 1973): 1.

40. AI, *Report on Torture*, 2nd ed. (New York: Farrar, Straus and Giroux, 1975).

41. Stefanie Grant, Foreword, in AI, *Annual Report 1973–74* (London: International Secretariat, 1974), 24.

42. AI, *Report on Torture*, 114.

43. Niall MacDermot, "Law and the Prevention of Torture," *Review of the International Commission of Jurists*, no. 11 (December 1973): 23–27. The article is "based upon a report given by the secretary-general of the International Commission of Jurists, to a Conference on Torture convened by the British Section of Amnesty International in London on October 20, 1973."

44. AI, *Conference for the Abolition of Torture, Paris, 10–11 December 1973, Final Report*, AI Index no. PUB 29/00/74 (London: International Secretariat, 1974), 29–30.

45. "Continuing Action against Torture," *Amnesty International Newsletter* 3, no. 10 (October 1973): 2.

46. AI, *Annual Report 1973–74*, 15.
47. “Conference Secretary Appointed,” *Amnesty International Newsletter* 3, no. 5 (May 1973): 3.
48. “Anti-Torture Petition ‘Wired’ to UN,” *Amnesty International Newsletter* 4, no. 1 (January 1974): 1. A facsimile of the document appears in AI, *Conference for the Abolition of Torture*, 4.
49. “Appeal Passes One Million Signature Goal,” *Amnesty International Newsletter*, vol. 3, no. 12 (December 1973): 2.
50. AI, *Annual Report 1973–74*, 13.
51. Rodley, interview.
52. For example, “Allegations of Torture in Brazil,” cited in *Amnesty International Newsletter* 2, no. 10 (October 1972): 2.
53. “Ten Torture Cases in PoC Week,” *Amnesty International Newsletter* 3, no. 11 (November 1973): 3.
54. “New Amnesty Techniques Explored and Far-Reaching Growth Plan Endorsed,” *Amnesty International Newsletter* 3, no. 10 (October 1973): 2.
55. Edy Kaufman, interview, College Park, Maryland, 10 September 1993.
56. Amnesty International, *Torture in the Eighties* (London: AI Publications, 1984), 2.
57. AI, *Annual Report 1977*, 32.
58. Van Boven, “Role of Non-Governmental Organizations,” 213.
59. Thomas E. Skidmore and Peter H. Smith, *Modern Latin America* (New York: Oxford University Press, 1989), 130–35.
60. Van Boven, “Role of Non-Governmental Organizations,” 213.
61. Elsa (Coca) Rudolfi, interview, Santiago, Chile, 20 November 1992.
62. “Amnesty International News in Brief,” *Amnesty International Newsletter* 4, no. 10 (October 1974): 4. In addition to Rudolfi, prisoners of conscience from Bulgaria, Cuba, Indonesia, Morocco, Rhodesia, Saudi Arabia, South Vietnam, the Soviet Union, Spain, Uruguay, and the U.S.A. were featured.
63. Kaufman, “Prisoners of Conscience,” 366. A similar newsletter feature, now called “Worldwide Appeals,” still exists.
64. Rudolfi, interview.
65. Kit Kennedy, “Women Political Prisoners Tortured,” *Majority Report*, 22 February 1975, 4.
66. See Organization of American States, Inter-American Commission on Human Rights, *Report on the Situation of Human Rights in Chile 1985*. OAS Doc. OAS/Ser.L/V/II.66, Doc. 17, 27 September 1985, chap. 6, paras. 22–26.
67. See Caroline Moorehead, “The Power of Shame as a Weapon,” *The Times* (London), 16.
68. AI, *Annual Report 1973–74*, 39.
69. Roberto Garretón, interview conducted by Kathryn Sikkink and the author, Santiago, Chile, 4 November 1992.
70. José Zalaquett, author’s interview, Santiago, Chile, 19 November 1992.
71. J. Herman Burgers and Hans Danelius, *The United Nations Convention against Torture* (Dordrecht: Martinus Nijhoff, 1988), 13.
72. UN, General Assembly Resolution 3059 (XXVIII), 2 November 1973.
73. Rodley, *Treatment of Prisoners*, 21.

74. *Ibid.*, 19.

75. UN discussion over the question of torture in 1973, quoted in Burgers and Danelius, *UN Convention*, 13–14.

76. AI, *Annual Report 1973–74*, 14.

77. *Ibid.*, 10.

78. “UNESCO Ban Fails to Halt Conference,” *Amnesty International Newsletter* 4, no. 1 (January 1974): 1.

79. Sean MacBride, “Preface,” in *Conference for the Abolition of Torture, Final Report*, 7.

80. Van Boven, “Role of Non-Governmental Organizations,” 213. See also Burgers and Danelius, *UN Convention*, 13.

81. AI, “Quadrennial Report, 1973–77, Submitted by Amnesty International,” in UN, ECOSOC, *Quadrennial Reports on the Activities of Non-Governmental Organizations Granted Consultative Status to Categories I and II by the Economic and Social Council*, UN Doc. E/C.2/R.49/Add.101, 2 December 1977, 4.

82. *Ibid.*

83. “Staff,” *Amnesty International Newsletter* 3, no. 2 (February 1973): 1.

84. Dick Oosting (with Marzel Zwanborn), interview conducted by Kathryn Sikkink, Utrecht, The Netherlands, 12 November 1993. Oosting, a lawyer by training, had been active in the Dutch section of AI, and had translated AI’s *Report on Torture* into Dutch. In December 1977, Oosting became deputy secretary-general of AI, and served in that capacity until 1982. (“IEC Names Dick Oosting to Fill First Post in New Anti-Torture Department,” *Amnesty International Newsletter* 4, no. 3 [March 1974]: 4; “AI’s Executive Plans Activities for 1979,” *Amnesty International Newsletter* 8, no. 1 [January 1978]: 2.)

85. AI, *Annual Report 1974–75*, 18.

86. UN General Assembly Resolution 3218 (XXIX). Quoted in Burgers and Danelius, *UN Convention*, 14.

87. Burgers and Danelius, *UN Convention*, 14.

88. Virginia Leary, “A New Role for Non-Governmental Organizations in Human Rights: A Case Study of Non-Governmental Participation in the Development of International Norms against Torture,” *UN Law/Fundamental Rights*, ed. Antonio Cassese (Aalphen aan den Rijn, Sijthoff and Noordhoof, 1979), 202.

89. Burgers and Danelius, *UN Convention*, 19.

90. Leary, “A New Role,” 202.

91. Rodley, *Treatment of Prisoners*, 356.

92. “Code of Ethics for Lawyers, Relevant to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” also in 1975. (Burgers and Danelius, *UN Convention*, 19.)

93. “AI Urges UN Body to Recommend Machinery for Stopping Torture and Protecting Prisoners against Ill Treatment,” *Amnesty International Newsletter* 5, no. 9 (September 1975): 1.

94. Leary, “A New Role,” 203.

95. *Ibid.*

96. Rodley, *Treatment of Prisoners*, 357.

97. *Ibid.*, 358.

98. UN General Assembly Res. 34/169, 17 December 1979.

99. Claudius and Stepan, *Amnesty International*, 292.
100. For an account comparing the wording and content of the Code of Conduct with regard to the Declaration of The Hague, see Rodley, *Treatment of Prisoners*, 355–62.
101. UN General Assembly Res. 37/194. (Burgers and Danelius, *UN Convention*, 21–22; see also Rodley, *Treatment of Prisoners*, 371–72.)
102. Leary, “A New Role,” 204; Burgers and Danelius, *UN Convention*, 15.
103. Burgers and Danelius, *UN Convention*, 15.
104. Jan Herman Burgers, interview conducted by Kathryn Sikkink, The Hague, The Netherlands, 13 November 1993. Burgers, coauthor with Danelius of *UN Convention* (cited above), served as a member of the Netherlands’ delegation to the UN Commission on Human Rights.
105. Oosting, interview.
106. Leary, “A New Role,” 204.
107. “AI Secretary General Visits United Nations,” *Campaign for the Abolition of Torture Monthly Bulletin* 2, no. 11 (November 1975): 4.
108. UN General Assembly Res. 3542 (XXX), 9 December 1975.
109. Leary, “A New Role,” 204–5.
110. See Burgers and Danelius, *UN Convention*, xi, 34–36.
111. *Ibid.*, 26.
112. *Ibid.*, 37–38.
113. François de Vargas, “History of a Campaign,” in *Torture: How to Make the International Convention Effective*, ed. by International Commission of Jurists and Swiss Committee Against Torture (Geneva: International Commission of Jurists and Swiss Committee Against Torture, 1980), 44.
114. Burgers and Danelius, *UN Convention*, 27.
115. *Ibid.*, 105.
116. *Ibid.*, 32.
117. UN Doc. E/CN.4/1427, reprinted in Burgers and Danelius, *UN Convention*, 218.
118. The wording was proposed by the representative from Argentina, representing a new government after the fall of the Argentine military government in 1982. (Burgers and Danelius, *UN Convention*, 84.) The Argentine diplomatic delegation had been a major antagonist in the Commission only a few years earlier, when the issue of disappearances under the military government of Argentina had come to the fore. (See chapter 4, below.) In fact, Burgers and Danelius note that the “radical change” in the Argentine position at the Commission greatly facilitated final agreement on the draft of the convention in the 1984 session (*UN Convention*, 92).
119. Burgers and Danelius, *UN Convention*, 39.
120. *Ibid.*, 80.
121. Intervention of Mr. N. Rodley, Amnesty International, “Interventions Relating to the Report on ‘Responsibilities for the Organs of the European Convention, Including the Committee of Ministers,’ ” in Council of Europe, *Proceedings of the Sixth International Colloquy about the European Convention on Human Rights, 13–16 November 1985* (Dordrecht: Martinus Nijhoff, 1988), 1058.

122. Niall MacDermot, "How to Enforce the Torture Convention," in International Commission of Jurists and Swiss Committee Against Torture, *Torture*, 19.

123. "Introduction," International Commission of Jurists and Swiss Committee Against Torture, *Torture*, 5. See also Burgers and Danelius, *UN Convention*, 28.

124. Burgers and Danelius, *UN Convention*, 91.

125. *Ibid.*, 104–6. See UN General Assembly, "Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Report of the Third Committee," UN Doc. A/39/708, 7 December 1984, paras. 12 and 13.

126. International Commission of Jurists, "Draft Convention on Torture, Intervention by Niall MacDermot, Secretary General of the International Commission of Jurists," typescript, Geneva, 29 February 1984, 1–2.

127. Amnesty International, "Oral Statement by Amnesty International, Convention Against Torture," delivered by Secretary-General Thomas Hammarberg to the 40th session of the U.N. Commission on Human Rights, typescript, 28 February 1984.

128. AI, *Torture in the Eighties* (London: Amnesty International Publications, 1984), 3.

129. The final convention does establish extensive jurisdiction, although conditions for extradition may be subject to interpretation, depending on a state's own domestic law.

130. "Twelve-Point Program for the Prevention of Torture," adopted by Amnesty International in October 1983, in AI, *Torture in the Eighties*, 249–51.

131. Burgers and Danelius, *UN Convention*, 102–3.

132. Bolivia, Colombia, Costa Rica, Denmark, the Dominican Republic, Finland, Gambia, Greece, Norway, Samoa, and Spain, followed by Australia, Austria, Belgium, France, Iceland, Panama, Portugal, Singapore, and the United Kingdom. (*Ibid.*, 103.)

133. Amnesty International, "Ratification of Human Rights Instruments: Oral Statement by Amnesty International," mimeo, AI Index no. IOR 41/08/85, 1985, 2.

134. The Working Group on Enforced or Involuntary Disappearances was created in 1980 (see below, chapter 4), and the Special Rapporteur on Summary or Arbitrary Executions was created in 1982 (see below, chapter 5).

135. As of September 1998, twenty thematic mechanisms were in effect.

136. Peter H. Kooijmans, "The Role and Action of the UN Special Rapporteur on Torture," in *The International Fight against Torture*, ed. Antonio Cassese (Baden-Baden, Germany: Nomos, 1991), 58.

137. *Ibid.*

138. *Ibid.*

139. Helena Cook, "The Role of Amnesty International in the Fight against Torture," in *The International Fight against Torture*, ed. Cassese, 181–82.

140. UN Commission on Human Rights Resolution 1985/33.

141. Nigel Rodley, "United Nations Action Procedures against 'Disappearances,' Summary or Arbitrary Executions, and Torture," in *Human Rights*, ed. Peter Davies (London: Routledge, 1988), 95.

142. Menno Kamminga, "The Thematic Procedures of the U.N. Commission on Human Rights," *Netherlands International Law Review* 34 (1987): 311.

143. Ibid., 301.
144. Chapter 4 below offers a more detailed discussion of the genesis of the first thematic mechanism's reporting procedures (those of the Working Group on Enforced or Involuntary Disappearances) and the adoption of existing NGO techniques.
145. Burgers and Danelius, *UN Convention*, 29.
146. Ibid., 30.
147. MacDermot, "How to Enforce the Convention," 35.
148. Amnesty International, "New International Instruments: The Draft Declaration on the Protection of All Persons from Enforced Disappearance; The Draft Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Oral Intervention by Amnesty International," UN Commission on Human Rights, 48th Session, Delivered February 1992, typescript, AI Index IOR 41/02/92, 1992, 3.
149. UN Commission on Human Rights Res. 1992/43, 3 March 1992.
150. Burgers, interview.
151. In addition, Burgers claimed that Jean-Jacques Gautier, whom he referred to as "the father of the European Convention [for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment]," was also motivated by the AI campaign. (Burgers, interview.)

CHAPTER FOUR DISAPPEARANCES

1. Amnesty International, *"Disappearances": A Workbook* (New York: Amnesty International USA, 1981), 2.
2. Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949, article 147, quoted in Rodley, *Treatment of Prisoners*, 243.
3. David Pion-Berlin and George A. Lopez, "Of Victims and Executioners: Argentine State Terror, 1975–1979," *International Studies Quarterly* 35 (1991): 64; T. David Mason and Dale A. Crane, "The Political Economy of Death Squads: Toward a Theory of the Impact of State-Sanctioned Terror," *International Studies Quarterly* 33 (1989): 178.
4. Amnesty International, *Guatemala: Amnesty International Briefing Paper No. 8* (London: Amnesty International Publications, December 1976), 1.
5. See aid data from U.S. Department of Defense, *Military Assistance Facts, 15 February 1967*, cited in Richard Newbold Adams, *Crucifixion by Power* (Austin: University of Texas, 1970), 264.
6. AI, *Annual Report 1970–71* (London: AI Publications, 1971), 64.
7. AI, *Briefing Paper No. 8*.
8. Picken, interview.
9. AI, *Annual Report 1968–69*, no page numbers.
10. Ann Marie Clark, " 'A Calendar of Abuses': Amnesty International's Guatemala Campaigning," in *NGOs and Human Rights*, ed. Claude E. Welch, Jr. (Philadelphia: University of Pennsylvania Press, forthcoming).
11. AI, *Amnesty International Report 1977* (London: AI Publications, 1977), 32.