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INTERNATIONAL REVIEW of the Red Cross

**International Committee of the
Red Cross (ICRC) policy on torture
and cruel, inhuman or degrading
treatment inflicted on persons
deprived of their liberty**



ICRC

Aim and scope

The International Review of the Red Cross is a periodical published by the ICRC. Its aim is to promote reflection on humanitarian law, policy and action in armed conflict and other situations of collective armed violence. A specialized journal in humanitarian law, it endeavours to promote knowledge, critical analysis and development of the law and contribute to the prevention of violations of rules protecting fundamental rights and values. The Review offers a forum for discussion about contemporary humanitarian action as well as analysis of the causes and characteristics of conflicts so as to give a clearer insight into the humanitarian problems they generate. Finally, the Review informs its readership on questions pertaining to the International Red Cross and Red Crescent Movement and in particular on the activities and policies of the ICRC.

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The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of war and internal violence and to provide them with assistance. It directs and coordinates the international relief activities conducted by the Movement in situations of conflict. It also endeavours to prevent suffering by promoting and strengthening international humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the International Red Cross and Red Crescent Movement.

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International Committee of the Red Cross (ICRC) policy on torture and cruel, inhuman or degrading treatment inflicted on persons deprived of their liberty

Policy adopted by the Assembly Council of the ICRC on 9 June 2011

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Preamble

Action against torture and cruel, inhuman or degrading treatment is a key focus in the ICRC's work on behalf of persons deprived of their liberty.

On the basis of its profound conviction that such practices are absolutely unacceptable, the ICRC implements a global response the primary objective of which is to ensure protection and assistance for victims and contribute to their rehabilitation, and help to establish and/or strengthen a normative, institutional and ethical environment conducive to the prevention of this phenomenon.

Accordingly, the ICRC relies on its own experience, on its in-depth knowledge of this practice, on its privileged access to victims and on its confidential bilateral dialogue with the authorities and other actors. It also knows that it can rely on the normative, institutional and ethical developments that have taken place in recent years with regard to these issues.

Aware of the immense challenge that action against torture and cruel, inhuman or degrading treatment represents and of its importance for present and future victims and for their families, communities and societies, the ICRC seeks to reaffirm clearly and publicly the scope and depth of its commitment to its work in this sphere.

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Horror, anger, sadness or compassion are some of the feelings experienced by anyone who comes face to face with a victim of torture and cruel, inhuman or degrading treatment.

These feelings and what they show about the unacceptable nature of those practices to a large extent form the basis of the commitment of the International Committee of the Red Cross (ICRC) to eliminate torture and cruel, inhuman or degrading treatment. They should always be borne in mind.

Ill-treatment¹ constitutes an intolerable outrage upon human dignity. It is not just the victims of torture and cruel, inhuman or degrading treatment who feel the long-term impact, physically and psychologically, of the suffering and the denial of their humanity that has been inflicted upon them: their families feel this impact too. Moreover, ill-treatment has the potential to destroy the social ties that underpin a community or a society. Finally, it is a flagrant violation of international humanitarian law and international human rights law.

Consequently, the ICRC is deeply convinced that acts of torture and cruel, inhuman or degrading treatment must be absolutely prohibited and cannot be justified or tolerated for any reasons whatsoever, whether political, economic, security-related, cultural or religious.

The absolute prohibition on ill-treatment is repeatedly challenged in both word and deed, so that the fight against it requires constant vigilance.

Those in favour of abolishing torture and cruel, inhuman or degrading treatment have always had to resist a variety of challenges to the absolute nature of the prohibition or some of its consequences. The same old arguments are put forward again and again concerning the effectiveness of these practices, the imminent or actual danger against which they are necessary, social pressure in their favour, different sensibilities between cultures, etc.

Even more fundamentally, we know from history that no country or community is ever entirely safe from the emergence or persistence of these practices. The sad reality is that torture and cruel, inhuman or degrading treatment endure the world over, even though the prohibition of them has been established in the relevant international and regional norms.

Faced with these challenges and being deeply convinced that nothing can justify outrages upon human dignity, the ICRC has developed a global response aimed at preventing and eliminating such practices.

The ultimate aim of the ICRC's engagement in the battle against torture and cruel, inhuman or degrading treatment is to work on behalf of the victims,

1 In the context of its action against torture and cruel, inhuman or degrading treatment, the ICRC uses the following definitions: **Torture** consists of (1) severe pain or suffering, whether physical or mental, inflicted (2) for such purposes as obtaining information or a confession, exerting pressure, intimidation or humiliation. **Cruel or inhuman** (synonymous terms) **treatment** consists of acts which cause serious mental pain or suffering, or which constitute a serious outrage upon individual dignity. Unlike torture, these acts do not need to be committed for a specific purpose. Finally, humiliating or **degrading** (synonymous terms) **treatment** consists of acts which involve real and serious humiliation or a serious outrage upon human dignity, and whose intensity is such that any reasonable person would feel outraged. The expression **ill-treatment** is not a legal term, but it covers all the above-mentioned acts.

who are the focus of its concern, in order to reduce their suffering and restore their human dignity.

This policy document presents in detail the range of measures taken by the ICRC against torture and cruel, inhuman or degrading treatment. These responses are developed within the framework of the ICRC's work in places of detention (Section 1). They are based on knowledge and analysis of individual and collective parameters and detention regimes which are implicated in the emergence, persistence or development of such practices (Section 2). The basic objective of these responses is to protect, assist and rehabilitate the victims of these wrongful acts (Section 3). The ICRC therefore engages in operational dialogue with the authorities and other relevant actors² in order to remind them of their obligations with regard to the prohibition of torture and other cruel, inhuman or degrading treatment, and also to support them in reinforcing or establishing a national or local environment conducive to the prevention of such practices (Section 4). Finally, the ICRC positions itself as a major actor in this field (Section 5).

Preliminary section: Scope and normative framework

1. Scope

At present, the scope of the prohibition of torture and cruel, inhuman or degrading treatment is particularly broad, and aims to protect all individuals against various outrages upon human dignity, both in situations where people are deprived of their liberty and where this is not the case.

First, in situations where people are not deprived of their liberty, certain forms of discrimination, limited access to medical care, illegal destruction of homes, or sexual assault committed in connection with military or police operations, constitute outrages upon individual dignity, and may therefore be described as cruel, inhuman or degrading treatment, or even as torture.

Second, in situations where people are deprived of their liberty, physical conditions of detention, violent acts committed by the authorities or other detainees, the practice of holding a person in custody for an indefinite period or without charge, and certain interrogation methods may all constitute torture or cruel, inhuman or degrading treatment.

In view of such diversity, and in order to present a consistent and relevant operational approach, this policy paper covers the ICRC's responses to outrages upon the human dignity or physical or mental integrity of persons deprived of their liberty³ committed by the authorities or other actors.

2 In line with the ICRC's Protection Policy, the expression 'authorities and other actors' used in a generic sense covers all authorities (State entities, international peace-keepers, and non-State actors, such as traditional groups and clans) and armed groups.

3 Deprivation of liberty refers to a person's situation from the moment he is arrested or captured until he is released. He may be released immediately after arrest or capture or later, after serving a prison sentence or after the detaining authorities decide to release him.

This paper presents the ICRC's responses to various aspects of the phenomenon of ill-treatment, with specific reference to the following: conditions of arrest, capture and transfer to a place of deprivation of liberty; interrogation methods; the use of force by the authorities for the purpose of restoring order in places of detention; disciplinary measures; the detention conditions, the detention regime, and the behaviour of guards; and corporal punishment inflicted as part of a criminal penalty.

2. Normative framework

The profound conviction underlying the ICRC's work that torture and cruel, inhuman or degrading treatment are unacceptable is strengthened by the provisions of international humanitarian law, of international human rights law (both universal and regional), and of international criminal law, under which the prohibition of torture and other forms of cruel, inhuman or degrading treatment is absolute: there is no room for exceptions to this obligation under any circumstances.⁴ Such provisions are also incorporated in many national legal systems.

International humanitarian law

The Geneva Conventions of 1949 and their Additional Protocols of 8 June 1977 contain a number of provisions that absolutely prohibit torture, cruel or inhuman treatment, and outrages upon individual dignity.

Thus, torture is prohibited by Article 3 common to the four Geneva Conventions, Article 12 of the First and Second Conventions, Articles 17 and 87 of the Third Convention, Article 32 of the Fourth Convention, Article 75.2 (a) and (e) of Additional Protocol I and Article 4.2 (a) and (h) of Additional Protocol II. In international armed conflict, torture constitutes a grave breach under Articles 50, 51, 130 and 147 of these Conventions, respectively. Under Article 85 of Additional Protocol I, these breaches constitute war crimes. In non-international armed conflict, they are considered serious violations.

Moreover, Article 3 common to the Geneva Conventions, Article 75.2 (b) and (e) of Additional Protocol I and Article 4.2 (a) and (h) of Additional Protocol II prohibit 'outrages upon personal dignity, in particular humiliating and degrading treatment'. In international armed conflict, these acts constitute grave breaches. In non-international armed conflict, they constitute serious violations.

Finally, the prohibition of torture, on cruel or inhuman treatment and on outrages upon personal dignity, in particular humiliating and degrading treatment, is recognized as a customary rule in the ICRC's study *Customary International*

4 See the International Covenant on Civil and Political Rights, Article 4; the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 15; the American Convention on Human Rights, Article 27; the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 2(2); and the Arab Charter on Human Rights, Article 4(b).

Humanitarian Law (Rule 90) and by the International Criminal Tribunal for the former Yugoslavia.

International human rights law, both universal and regional

The prohibition of torture and on cruel, inhuman or degrading treatment is also to be found in international human rights law, both universal and regional.

Thus, the Universal Declaration of Human Rights (Article 5), the International Covenant on Civil and Political Rights (Article 7), the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 3), the American Convention on Human Rights (Article 5.2), the African Charter on Human and Peoples' Rights (Article 5) and the Arab Charter on Human Rights (Article 8) contain provisions on this prohibition.

International criminal law

Finally, the Rome Statute of the International Criminal Court defines torture and cruel, inhuman or degrading treatment as war crimes under Article 8 (2)(a)(ii), (iii), (b) (xxi) and (c)(i) and (ii), and as crimes against humanity under Article 7 (1)(f) and (k).

National law

In accordance with the above-mentioned international obligations, provisions concerning the prohibition of torture and cruel, inhuman or degrading treatment also exist in national legislation.

Specifically, national constitutions and other fundamental texts, criminal law (substantive or procedural), as well as civil law and administrative law, reflect or should reflect these international obligations, and so play their part in fully implementing the prohibition of, and prevention of, torture and cruel, inhuman or degrading treatment.

Section 1: The ICRC's work in places of detention

The ICRC's privileged access to persons deprived of their liberty gives its work its specific character and relevance, and is of great benefit to victims of ill-treatment.

More specifically, access to persons deprived of their liberty and the possibility of interviewing them without witnesses are prerequisites for the ICRC's action regarding torture and cruel, inhuman or degrading treatment and give its work relevance and vigour. Such access is essential to enable the ICRC to see, understand and analyse ill-treatment and respond to it.

Consequently, in order to develop a bilateral and confidential dialogue with the authorities on issues relating to the treatment of persons deprived of their liberty, the ICRC seeks to have access to these persons according to standard procedures.

This access to detainees and the possibility of speaking to them in private are fundamental since they ensure that the individual remains the focus of the ICRC's work as the beneficiary of its services. Above all, this access allows the ICRC to register detainees and monitor their individual status throughout their period of detention, and this can contribute to their protection.

Furthermore, this access allows the ICRC to gain information on the sequence of events involved, treatment received and suffering caused, and also to understand and analyse the detention regime. From this point of view, the interview without witnesses is an especially precious tool.

Finally, this access enables the ICRC to establish a dialogue with the authorities in charge of places of detention and thus gain a deeper awareness of their working conditions and understand their role.

Section 2: Analysis of the practice of torture and cruel, inhuman or degrading treatment

The ICRC's work on behalf of persons deprived of their liberty does not just consist of regular visits to places of detention. In order to be relevant and effective, that work must be underpinned by an analysis and understanding of several elements relating to the factors that generate the practice of ill-treatment, to the detention regime, and to the specific nature of the perpetrators and the authorities concerned.

1. Analysis of the parameters which encourage or explain the emergence, existence or persistence of torture and cruel, inhuman or degrading treatment

Ill-treatment is a complex phenomenon that is the product of various individual, collective and institutional factors.

Firstly, it is the result of individual factors, mainly the mentality and personal characteristics of the perpetrators and the victims of ill-treatment, namely age, sex, religion, health, etc. Secondly, it stems from collective factors, which at national level may be social, political, legal or socio-economic. Finally, it is the product of institutional factors, which relate to the organization of places of detention, the level of training given to staff, the existence of internal or external control mechanisms, or disciplinary procedures applicable to staff.

The ICRC therefore makes a point of gaining knowledge of and analysing these various individual and collective factors in order to devise the most appropriate, relevant and effective response for present and future victims.

2. Analysis of the regimes at the places of detention it visits and their consequences for the treatment of persons deprived of their liberty

The detention regime directly influences the treatment of persons deprived of their liberty. In a prison, for example, elements such as confinement in a single cell or in a dormitory, access to health services, ways of communicating with other detainees and contact with the outside world may, depending on the individual, cause suffering that can be described as ill-treatment and that the authorities may use to create additional trauma.

Hence, by using various sources of first-hand information, including the detainees themselves and the detaining authorities, the ICRC can gain knowledge of the detention regimes at the places it visits. In this way it can understand not only the rules and procedures governing the regime but also the authorities' purpose in depriving persons of their liberty. Moreover, this knowledge enables the ICRC to carry out individual assessments of the effects of the detention regime on detainees and, where appropriate, draw the attention of the authorities concerned to the suffering caused.

3. Analysis of the dynamics typically affecting perpetrators of ill-treatment and the authorities for whom they work

The ICRC takes into consideration not only the torturer directly responsible for committing acts of ill-treatment but also all the other people directly or indirectly involved, particularly in order to understand how such acts could have been committed in a specific place.

For that purpose, the ICRC identifies not only the officials responsible for managing a place of detention, but also all persons who did nothing to prevent acts of ill-treatment or ordered them to be committed.

Such persons, whether members of law-enforcement services or acting on their behalf, and members of non-State groups, whether or not present on the premises, who knew or should have known that such acts would be committed, are responsible for them, if not *de jure*, at least *de facto*.

Within a single context, the ICRC may have to deal with different scenarios. The perpetrators may be completely unaware of the absolute prohibition of ill-treatment, or they may be consciously ignoring it because of specific orders, or profound conviction, or real or perceived social pressure, or out of self-interest. Regardless of these factors and of whether the perpetrators are law-enforcement officials or members of an armed group, their behaviour is affected by the level of training they have received for their role: they may have been well trained or, on the contrary, their training may have been limited, inadequate or non-existent.

The authorities and other actors, whether answerable to executive, judicial or legislative bodies or to a *de facto* power, ultimately bear the political and/or legal responsibility for ill-treatment practised on territory under their control. They therefore play a crucial role with regard to ending these practices, and it is vital for the ICRC to talk to them.

Again, as in the case of those perpetrating ill-treatment, the ICRC has to deal with different scenarios concerning the authorities. The latter may have ordered, tolerated or encouraged such practices or, conversely, may have given orders or clear indications that these practices were absolutely prohibited. Apart from that, regardless of whether such orders were implicit or explicit, they may or may not have been heard or complied with, owing, for example, to organizational problems in the country, to a lack of authority or to the inability to control the staff concerned.

Section 3: Protecting, assisting and rehabilitating victims of torture and cruel, inhuman or degrading treatment

A victim of ill-treatment may be extremely vulnerable and distressed and be both physically and psychologically shattered. The ICRC acts to reduce the effects of such suffering and, in the short and medium term, to restore the victim's human dignity. By their presence, ICRC delegates endeavour to lend victims a listening ear and provide them with support and assistance. In view of the effects of ill-treatment on mental health and its psycho-social impact, the ICRC seeks to be involved in the psychological, medical and social rehabilitation of persons who have been especially affected.

1. The ICRC strives to restore the human dignity of victims of torture and cruel, inhuman or degrading treatment

To the ICRC, the practice of visiting persons deprived of their liberty constitutes a unique opportunity to bring them some ordinary human kindness. Of equal importance, however, is the opportunity it affords to obtain information and a deeper understanding of detention conditions, thereby enriching its dialogue with the detaining authorities.

In the closed world of detention, and even more so in the horribly dehumanized world of ill-treatment, victims often cease to be seen as human beings at all, and even their basic needs are intentionally ignored. Victims of ill-treatment therefore have a profound need to be seen as human beings again.

In its work, the ICRC remains constantly aware of the fact that ill-treatment destroys the humanity of its victims.

This awareness translates in the first instance into attentiveness and a special kind of empathy. A victim may be comforted and restored to a sense of his status as a human being by simple gestures. Active listening is also important. The time ICRC delegates spend with victims of ill-treatment and their attention to what is said and the stories told are all ways of acknowledging that humanity.

Similarly, providing clothes or hygiene items can also be part of the process of restoring a sense of human dignity.

The attentive concern of ICRC doctors, whose presence is essential in working with torture victims, is part of the same approach. In their professional

capacity, the doctors play a special part by listening to victims, by examining them, and finally by reassuring them while providing objective information on the physical effects of the treatment they have endured. They must also check that the necessary medical care is being provided and that medical ethics are being respected.

Finally, restoring family ties is also part of the work of helping individuals recover their sense of dignity and humanity. Victims of ill-treatment are often cut off from their families. When people are detained in non-governmental premises, or are subject to emergency legislation that restricts or even prohibits contact with the outside world, or are simply isolated so that the pressure on them is greater, being able to reconnect with their emotional and family environment becomes exceptionally significant. Receiving news from family members, being able to send them news, and especially receiving visits from them are all hopeful signs, and proof that there is life beyond detention.

However, the ICRC would be unable to provide prolonged individual assistance without engaging in a meaningful operational dialogue with the authorities on the problem of ill-treatment. It would be unacceptable for a situation to develop in which the ICRC's assistance was perceived as some form of complicity with the authorities, insofar as it enabled them to conceal these practices and their effects wholly or in part.

2. The ICRC seeks to engage, mostly in partnership with other actors, in the rehabilitation of victims of torture and cruel, inhuman or degrading treatment

Humane concern is, of course, vital, but the fact remains that torture and cruel, inhuman or degrading treatment affects its victims profoundly, and such concern alone is insufficient to achieve the physical, psychological and social rehabilitation of these people.

Furthermore, in most cases, the impact of ill-treatment on people's physical and mental health lasts beyond the period of detention.

Accordingly, in the broader context of its work on behalf of victims of armed conflict and other situations of violence, the ICRC has begun to be involved in the rehabilitation of people who have been victims of torture and cruel, inhuman or degrading treatment. Its action takes place during and, especially, after the period of detention.

While bearing in mind that States are primarily responsible for victim rehabilitation, the ICRC's initiatives – which so far have been on a limited scale – essentially take place in partnership with other actors specialized in this field.

The ICRC endeavours to develop projects with reception centres for victims of ill-treatment run by NGOs, or with National Red Cross or Red Crescent Societies, or with independent doctors or hospital doctors, depending on operational opportunities and victims' needs.

Assistance activities beyond the period of detention can also contribute to the rehabilitation of people who, directly or indirectly, are victims of torture and cruel, inhuman or degrading treatment, namely family, friends and the community.

This involvement is a response to a dual concern, namely for the individual and for the community.

At the individual level, victims who have been seriously injured by ill-treatment may need medical, psychological and social assistance so that they can return as soon as possible to the life they knew before the ill-treatment. Without such individual support, some victims are unable to resume a normal emotional, professional or social life, with obvious consequences not just for themselves but also for their relatives and communities.

At the community level, the practice of torture and cruel, inhuman or degrading treatment has consequences for society as a whole. The silence which surrounds this practice, and is often imposed, is equally difficult for the victim's next-of-kin and his/her community to bear. Individual rehabilitation has the additional effect of healing some of the collective wounds caused by this practice and restoring dignity to the communities affected.

These rehabilitation programmes must also be seen in the context of the broader purpose of preventing the recurrence of such practices. Thus, *de facto* or *de jure* recognition of victim status and, even more important, psychosocial support of the victims and their relatives often make it possible to break cycles of revenge or repetition which sometimes affect victims and their communities.

Section 4: Dialogue with perpetrators and the authorities for whom they work, aimed at ending and preventing torture and cruel, inhuman or degrading treatment

The ICRC believes that nothing can justify the use of torture and cruel, inhuman or degrading treatment, whatever the social, economic, cultural, religious or political environment. There is no room for understanding or tolerance of these practices, and the ICRC's ultimate goal is therefore to eliminate them completely.

In its dialogue with perpetrators and the authorities for whom they work, the ICRC therefore always reminds them that ill-treatment is absolutely prohibited.

The organization may also offer support to the perpetrators of these acts and the competent authorities if they acknowledge that the problem exists and/or want to take action to prevent it, with the aim of setting up a detention system that respects human dignity and of helping to establish or strengthen an environment conducive to the prevention of torture and cruel, inhuman or degrading treatment.

1. The ICRC takes measures to assert the absolute prohibition of torture and cruel, inhuman or degrading treatment, and to remind the perpetrators of ill-treatment and the authorities for whom they work of their obligations concerning the implementation of this prohibition

For the purpose of eliminating ill-treatment and within the framework of the confidential bilateral dialogue which it always seeks to establish with the detaining authorities, the ICRC emphasizes that torture and cruel, inhuman or degrading treatment are absolutely prohibited and calls for them to be stopped.

Even if this confidential bilateral dialogue is unable to have an impact on the treatment of persons deprived of their liberty, the ICRC can make use of other modes of action under ICRC policy, as described in the paper entitled 'Action by the International Committee of the Red Cross in the event of violations of international humanitarian law or of other fundamental rules protecting person in situations of violence'.⁵

Furthermore, as well as emphasizing the existence of an official ban, the ICRC stresses to those concerned the nature of their obligations to implement the ban. Thus, for example, the ICRC focuses on the establishment of supervisory mechanisms, on the importance of effective penalties for the perpetration of these acts, on the training of staff, and on recognition of the inadmissibility of proof obtained by torture.

The ICRC sets out to engage in a direct and frank dialogue with perpetrators, the authorities for whom they work and other actors, and to make them aware of the individual, social and even international consequences of such misdeeds, whether they are ordered, encouraged, tolerated or simply ignored.

2. Within the framework of its operational dialogue, the ICRC seeks to support the authorities in drawing up rules and procedures of a kind to improve professional practices affecting the treatment of persons deprived of their liberty

The occurrence and persistence of torture and cruel, inhuman or degrading treatment sometimes stem from poor professional practices in the treatment of persons deprived of their liberty. Non-existent or inadequate training for police or prison personnel or a lack of clear procedures are all factors that contribute to the practice of ill-treatment.

Hence, the ICRC has developed an operational dialogue with perpetrators and the authorities for whom they work with regard to other aspects of detention, particularly the structure of the prison system (e.g. organizational issues, norms applied, and general or sectoral management issues, especially health, infrastructure and procurement). Likewise, the ICRC endeavours to go beyond

5 For further details of this policy, see the *International Review of the Red Cross*, Vol. 87, No. 858, June 2005, pp. 393–400.

emphasizing the fact of prohibition and its related obligations, and support the authorities in establishing or strengthening a framework in which professional practices can be improved.

There is no question of the ICRC, as a humanitarian organization, approving any specific practices or suggesting practices to perpetrators and/or their authorities that would meet the requirements of respect for the dignity or the physical and mental integrity of persons deprived of their liberty.

Such an approach can be morally uncomfortable, and the ICRC will adopt it only in situations where perpetrators and the authorities for whom they work acknowledge that these problems exist and/or want to act to put an end to them.

Accordingly, the ICRC will encourage perpetrators and the authorities for whom they work to introduce or strengthen professional practices that respect human dignity.

Together with the authorities, the ICRC will ensure that the professional practices of relevant staff are in line with the requirements arising from the prohibition of torture and cruel, inhuman or degrading treatment with respect to issues such as: methods to be used to obtain information during an investigation; management of discipline and security in places of detention; establishing detention conditions that are respectful of human dignity; the importance that detainees attach to understanding their detention process; and the use of force during arrest or transfer.

The ICRC may thus be able to support the authorities in establishing specific measures, means and mechanisms that encourage compliance with the absolute prohibition of torture and other forms of ill-treatment, through policy (the set of standard principles that guide weapon-bearers at the strategic, operational and tactical levels), education, training, equipment and, finally, penalties.

Also as part of its efforts to prevent ill-treatment, the ICRC may contemplate offering perpetrators and the authorities for whom they work the opportunity to engage in bilateral cooperation with some of their peers with whom the ICRC has already established a working relationship.

3. The ICRC supports the authorities and other actors in establishing or strengthening an environment conducive to the prevention of torture and cruel, inhuman or degrading treatment

Where authorities and other actors acknowledge that such practices occur and show a real desire to put an end to them, the ICRC goes beyond emphasizing the existence of the prohibition and the obligations that arise from it. It encourages the desire for change, and works with the authorities and other actors to set up a normative, institutional and moral environment in which these practices can be stopped and prevented from recurring.

More specifically, it is important to obtain clear and indeed public commitments from the executive authorities in favour of the absolute prohibition of torture and cruel, inhuman or degrading treatment. For the ICRC and for other actors combating ill-treatment, such commitments are invaluable tools that can be

used to draw the attention of the authorities to their responsibilities concerning implementation. Moreover, such statements can be used in talks with persons responsible for ill-treatment, who can be urged to respect these commitments.

Furthermore, the ICRC draws the attention of the judicial authorities to their responsibility to implement the absolute prohibition of torture and cruel, inhuman or degrading treatment, and especially to the fact that information obtained under torture is inadmissible, that perpetrators of such acts are liable to prosecution and criminal sentences, and that victims and their rights must be recognized.

Finally, the ICRC encourages the legislative authorities to ratify and implement the relevant international instruments, and contributes to the adoption of legislation and the establishment of institutions promoting the prevention of ill-treatment.

4. The ICRC endeavours at national level, together with all members of civil society, to promote and strengthen a normative, institutional and ethical environment conducive to the prevention of torture and cruel, inhuman or degrading treatment

Although individual attitudes play a crucial part when torture and other forms of ill-treatment occur, these practices develop fully only if the normative, institutional and especially ethical environments are conducive to it. The ICRC may therefore also strive to mobilize national actors at different levels of civil society and in the political sphere in order to sway opinion, encourage progress, and influence the relevant legislation.

Firstly, on the normative level, the ICRC engages in a dialogue with national actors on the establishment and/or improvement of a normative framework concerning the prohibition of torture and cruel, inhuman or degrading treatment. This means considering the ratification of relevant international conventions, both universal and regional, and their implementation. In addition to ensuring that a prohibition is written into the constitution, it is even more important that legislative, regulatory or disciplinary safeguards be in place, to give substance to the absolute prohibition of torture and cruel, inhuman or degrading treatment.

Next, on the institutional level, the ICRC is certain that the existence of internal monitoring mechanisms, such as supervision by superiors, committees on professional ethics, and of external mechanisms, such as non-governmental organizations (NGOs), the bar [association of lawyers] and a national human rights commission, helps to prevent torture and cruel, inhuman or degrading treatment. Hence the ICRC may decide, in full transparency with regard to the authorities, to support the process of establishing or strengthening these supervisory mechanisms. Furthermore, while observing the requirements arising from the confidentiality of its work and following criteria relating in particular to the independence and professionalism of these other actors, the ICRC may work with the latter, especially with a view to optimizing available means and resources.

Finally, implementation of the absolute prohibition of torture and cruel, inhuman or degrading treatment is primarily dependent on moral conviction. The requisite normative and institutional environments are of no use if the conviction that ill-treatment can never be justified under any circumstances is not firmly anchored in a country or a community. The conviction is a fragile one, however, and constantly requires protection and, even more importantly, reinforcement.

The ICRC therefore strives to reinforce the absolute prohibition of torture and cruel, inhuman or degrading treatment, and positions itself accordingly at the national and local levels, in particular by drawing attention to the grave consequences of such practices for society and the individual.

Section 5: The positioning of the ICRC as a major actor in the global fight against torture and cruel, inhuman or degrading treatment

Recognition of the absolute prohibition of torture and cruel, inhuman or degrading treatment is fragile, and its fragility in many countries has become apparent in the early years of the twenty-first century in relation to the fight against international terrorism. Relativistic arguments have been revived, including in public debate, attempting to justify and even demand the use of ill-treatment, for the sake of preserving security and order. The entire normative, institutional and ethical environment relating to the fight against torture and cruel, inhuman or degrading treatment is therefore undermined.

It is important to be aware of this difficult reality, and of its consequences for the treatment of persons deprived of their liberty worldwide. The ICRC has the strength that comes from its profound conviction that the dignity of the individual takes precedence over any other concern, and as an organization it therefore can and should act as a point of reference in this field, swayed neither by naivety nor weakness.

The ICRC complements its context-specific operational responses by seeking to act at the global level to promote a stronger normative, institutional and ethical environment conducive to the prevention of torture and cruel, inhuman and degrading treatment. It endeavours to influence the debate, thereby affecting both the decision-makers and public opinion.

1. The ICRC endeavours to strengthen the international legal frameworks, both universal and regional, relating to the absolute prohibition of torture and cruel, inhuman or degrading treatment

Although the international norms, both universal and regional, relating to the absolute prohibition of torture and cruel, inhuman or degrading treatment are well established (see Preliminary section), the ICRC nevertheless strives to ensure that those norms are observed and promoted, and also to develop them, particularly at regional level.

As the ICRC is convinced of the importance of such norms, it supports and participates in processes that may lead to the adoption of such provisions.

In order to defend the norms, scope and obligations relating to the prohibition of torture and other forms of ill-treatment, the ICRC uses its usual channels to resist challenges to the prohibition and to emphasize publicly the absolute nature of the prohibition and related legal obligations.

2. The ICRC helps strengthen international and regional institutional actors engaged in the prevention of torture and cruel, inhuman or degrading treatment

The ICRC is convinced of the importance of the contribution of a number of major international and regional institutional actors towards achieving a total prohibition of torture and cruel, inhuman or degrading treatment.

The ICRC establishes regular working relationships with them, while duly observing the requirements arising from the confidentiality of its work, and acting in accordance with criteria relating in particular to the independence and professionalism of these mechanisms. Such relationships can, for example, eventually strengthen their operational capacities, especially as regards the methodology of their visits to persons deprived of their liberty. Such a dialogue also enables the ICRC to learn from the approaches developed by these other actors.

3. The ICRC strives to reinforce the attitude that torture and cruel, inhuman or degrading treatment are morally unacceptable

The ICRC also endeavours to help establish an environment conducive to strengthening the absolute nature of the prohibition of torture and cruel, inhuman or degrading treatment.

The ICRC is strongly convinced that zero tolerance of ill-treatment must be based first and foremost on the ethical and moral convictions held by each individual and each community or society concerning the unacceptable nature of such acts, and more generally the fundamental importance of protecting human dignity.

Conversely, if those convictions are not firmly held, legal norms and monitoring mechanisms are useless for the purpose of preventing such acts.

The ICRC therefore acts publicly to ensure that the arguments relating to the unacceptable nature of such outrages on human dignity, the individual consequences for victims of such misdeeds and the consequences for society as a whole are heard once again in such a way as to influence public opinion and all the relevant actors on the international scene.

4. The ICRC relies on public communication to promote its work and to position itself within the public sphere

Depending on operational needs, the ICRC may decide to use public communication tools to influence public opinion or its own contacts in support of all its

initiatives aimed at putting an end to torture and cruel, inhuman or degrading treatment. These tools are used with due respect for the requirements arising from the confidentiality of the work of the ICRC.

Public communication is also used to ensure that the credibility of the ICRC's action to end torture and cruel, inhuman or degrading treatment is maintained in the minds of priority audiences.

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