



# Human Rights Advocates

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## **METHODS FOR ADDRESSING ONGOING TORTURE**

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## **Introduction**

State actors regularly violate international law without being held accountable for their violations. Consequently, survivors of torture have not been afforded adequate remedies. In order to ensure justice for torture survivors, there must be documentation of torture in order to promote transparency while simultaneously holding perpetrators of violence accountable. To ensure the effectiveness of the process, victims must be afforded access to legal remedies.

The obligations against torture are set forth in the Universal Declaration of Human Rights,<sup>1</sup> the Convention Against Torture,<sup>2</sup> and the International Covenant on Civil and Political Rights.<sup>3</sup> This statement addresses the ongoing issue of torture by noting practices in four countries: the U.S., Syria, Iran, and Russia.

### **I. The Need for Documentation**

In respect to the four countries mentioned above, there is a need for an impartial observance and documentation of state sponsored torture. In order to begin the transparency process, all states must first recognize the universal prohibition of torture and ill treatment pursuant to treaty obligations. This extends to “all places that the State party controls as a government authority.”<sup>4</sup>

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<sup>1</sup> The Universal Declaration of Human Rights, U.N. Doc. A/810 (1948), Article 5, available at: <http://www.un.org/en/documents/udhr/>.

<sup>2</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc. CAT/C/2/Rev.3 (1994), *United Nations Committee Against Torture*, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>.

<sup>3</sup> International Covenant on Civil and Political Rights, U.N. Doc. A/6316 (1966), Article 7, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.

<sup>4</sup> Report of the Committee Against Torture Fifty Third Session, CAT/C/USA/CO/3-5, page 3 (November 3-28, 2014) available at:

## **The United States of America**

Under the definition provided above, victims must be afforded redress against the torture experienced in Guantanamo Bay Prison, Bagram Prison, Abu Ghraib, or prisons that prevent any form of communication with the outside, also known as black site prisons.

In the United States of America, the operation of Guantanamo Bay and black site prisons hinders the implementation of policies of transparency due to the inability for prisoners to receive a fair trial and engage in any form of communication once imprisoned. This undoubtedly hinders the documentation process.

In February of 2015, information regarding a domestic equivalent of a CIA black site prison in Homan Square, Chicago became available to the public.<sup>5</sup> The Chicago Police Department denied basic human rights to its prisoners by beating, shackling and interrogating its prisoners for long periods of time, denying them access to legal representation.<sup>6</sup> The prison allegedly held people as young as 15 years old.<sup>7</sup> Chicago authorities provided no documentation on the conditions of the prisoners and did engage in any form of transparency with members of the public.<sup>8</sup>

The recent release of the Senate's Intelligence Committee Report on CIA torture

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<http://www.state.gov/documents/organization/234772.pdf>.

<sup>5</sup> Ackerman, Spencer, "The Disappeared: Chicago Police Detain Americans at abuse Laden Sites" *The Guardian*, February 24, 2015, available at: <http://www.theguardian.com/us-news/2015/feb/24/chicago-police-detain-americans-black-site>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

informed the global community of the emotionally and physically traumatic “enhanced interrogation” techniques performed by Americans on alleged enemy combatants.<sup>9</sup> The report was released twelve years after Guantanamo Bay Prison began operating in its current capacity. It took six years to achieve the declassification of a memoir published by Detainee Moheamedou Ouldslahi, who elaborated on the torture he faced at the hands of U.S. Personnel at Guantanamo Bay Prison.<sup>10</sup> Nonetheless, even after its publication, the memoir was heavily censored with nearly 2,500 redactions.<sup>11</sup>

U.S. personnel committed violations of both customary international law and treaties throughout the twelve years of the prison’s operation. As a party to the United Nations Convention Against Torture, the U.S. violated its obligations by utilizing torture methods that included sensory deprivation, waterboarding, and sexual abuse.<sup>12</sup>

The failure of the U.S. government to promote transparency of torture is further illustrated in the example of juveniles being held in Guantanamo Bay Prison.<sup>13</sup> The U.S. did not fulfill the international standards that require imprisoned juveniles be free from

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<sup>9</sup> U.S. Senate Select Committee on Intelligence, “Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program,” *Senate Select Committee on Intelligence*, Page 11, available at:

[http://www.nytimes.com/interactive/2014/12/09/world/cia-torture-report-document.html?\\_r=0](http://www.nytimes.com/interactive/2014/12/09/world/cia-torture-report-document.html?_r=0).

<sup>10</sup> Hackel, Joyce, “U.S. Censors Make Up 2,500 Cuts to First Ever Published Diary by Guantanamo Detainee,” *PRI*, January 22, 2015, available at: <http://www.pri.org/stories/2015-01-22/much-guantanamo-detainees-diary-didnt-make-it-past-government-censors>.

<sup>11</sup> *Id.*

<sup>12</sup> Gagnon, Julie Dubé, “The Case of Detainees Tortured in the Name of National Security and the ‘War on Terror:’ Are They Entitled to Reparations?” 1 *Notre Dame Journal of International & Comparative Law* 164 (2011), available at <http://scholarship.law.nd.edu/ndjicl/vol1/iss1/5/>.

<sup>13</sup> Burkeman, Oliver. “Children Held in Guantanamo Bay,” *The Guardian*. April 24, 2003, available at: <http://www.theguardian.com/world/2003/apr/24/usa.afghanistan>.

torture.<sup>14</sup> Furthermore, it failed to promote documentation of torture of the children imprisoned in Guantanamo Bay Prison.<sup>15</sup>

Mohamed Jawad, a juvenile detained and imprisoned at the age of 12, was found innocent when a U.S. judge ruled that his false confession was elicited through torture.<sup>16</sup> Released after nearly four years, there were few resources documenting the events of this specific case. In addition, the government failed to provide proper rehabilitation for the survivor or his family.<sup>17</sup>

In Abu Ghraib prison, U.S. personnel were responsible for raping children of prisoners within the prison.<sup>18</sup> This psychological and physical form of torture was never documented properly nor addressed by state actors. The testimony of Kasim Hilas, a prisoner in Abu-Ghraib, recalls a guard raping a 15-18 year old boy while a female soldier took pictures as the mothers of the victims heard screams or were forced to watch.<sup>19</sup> This evidence of torture is now being released after years of it being shielded

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<sup>14</sup> In addition to the treaties mentioned above, *see* Convention of the Rights of the Child,” U.N. Doc. CRC/C/2/Rev.3, Article 19 (1994), available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

<sup>15</sup> *Supra* note 13.

<sup>16</sup> Worthington, Andy, “Wikileaks and the 22 Children of Guantanamo,” November 16, 2011, available at: <http://www.andyworthington.co.uk/2011/06/11/wikileaks-and-the-22-children-of-guantanamo/>.

<sup>17</sup> *Id.*

<sup>18</sup> Gradham, Duncan and Cruickshank, Paul, “Abu Ghraib Abuse Shows Rape,” *The Telegraph*, May 27, 2009, available at: <http://www.telegraph.co.uk/news/worldnews/northamerica/usa/5395830/Abu-Ghraib-abuse-photos-show-rape.html>.

<sup>19</sup> Vibes, John, “Classified Evidence: U.S. Soldier Raped Boys in Front of their Mothers,” *Mintpress News*, December 19, 2014, available at: <http://www.mintpressnews.com/classified-evidence-us-soldiers-raped-boys-in-front-of-their-mothers/200160/>.

from the public.<sup>20</sup>

The U.S. administration refused to permit the release of the photographs for the purpose of protecting the safety of American troops.<sup>21</sup> This effort however, trumps the need for ensuring appropriate documentation and holding those responsible for the violations in Abu Ghraib prison accountable. Actors in the Bush Administration played a vital role in the operation of the prison and have yet to be held accountable for their violations of international law.

## **Syria**

In Syria, torture is a regular practice employed by the Assad government.<sup>22</sup> Hafiz el Assad and Bashar el Assad's current government have and continue to torture their citizens. Opponents of the Assad government are illegally imprisoned without access to legal representation.<sup>23</sup> Occurrences such as these have substantially increased since the Syrian uprising that began in March 2011.<sup>24</sup>

As a party to the pursuant documents, the Syrian government violated customary

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Daily Mail Reporter, "Syrian Dictator Bashar Assad Guilty of Crimes Against Humanity Says U.N. Chief..." *Daily Mail Reporter*, September 13, 2013, available at <http://www.dailymail.co.uk/news/article-2420510/Syrian-dictator-Bashar-Assad-IS-guilty-crimes-humanity-says-UN-chief-Ban-Ki-Moon.html#ixzz3RDVlxOW0>.

<sup>23</sup> Amnesty International, "I Wanted to Die, Syria's Torture Survivors Speak Out." March 2012, Pg. 36, available at: <https://www.amnestyusa.org/sites/default/files/mde240162012en.pdf>.

<sup>24</sup> Human Rights Watch, "Torture Archipelago: Arbitrary Arrests, Torture and Enforced Disappearances in Syria's Underground Prisons since March 2011," July 4, 2012, available at: <http://www.hrw.org/sites/default/files/reports/syria0712webwcover.pdf>.

international law as well as the obligations under the Article 7 of ICCPR<sup>25</sup> and Article 37 CAT.<sup>26</sup> Testimonies of torture survivors provide evidence that amounts to crimes against humanity, including systematic gender-based torture, whippings, beatings with cable sticks, and rape against the Syrian civilian population.<sup>27</sup>

A torture survivor, who actively and peacefully protested against the regime during the uprising in March of 2011, reported to the *New York Times* that the Assad government prevented any access to legal representation.<sup>28</sup> For over a month, the survivor stated that she shared one 50 square foot cell with more than thirty women.<sup>29</sup> She recalls witnessing a doctor, falsely accused of a crime, hung from her hair instead of her wrists, while being electrocuted and shocked.<sup>30</sup>

Reports indicate that the Assad government successfully silences victims of torture through fear tactics and physical threats.<sup>31</sup> Nonetheless, a Syrian human rights activist who goes by the name of “Caesar” for safety reasons presented nearly 55,000 pictures of tortured Syrians to the U.N. Security Council in April of 2014.<sup>32</sup> Caesar’s role was to photograph torture at crime scenes for the military police.<sup>33</sup> After witnessing

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<sup>25</sup> *Supra* note 3.

<sup>26</sup> *Supra* note 2.

<sup>27</sup> *Supra* note 22.

<sup>28</sup> Mofrej, Alise, “Inside Syria’s Jails,” *The New York Times*, February 3, 2015, available at [http://www.nytimes.com/2015/02/04/opinion/inside-syrias-jails.html?fb\\_ref=Default&\\_r=0](http://www.nytimes.com/2015/02/04/opinion/inside-syrias-jails.html?fb_ref=Default&_r=0).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Ghattas, Kim, “Syrian Torture: Will Photos Turn U.S. Opinion?” *BBC News*, January 27, 2015, available at: <http://www.bbc.com/news/magazine-30689627>.

<sup>32</sup> “Letter Dated 2 April 2014 From the Permanent Representative of France to the United Nations Addressed to the President of the Security Council,” *United Nations Security Council*, S/2014/244, April 4, 2014.

<sup>33</sup> Charbounneau, Louis and Nichols, Michelle. “U.N. Security Council Members View Graphic Photos of Syria’s Dead,” *Reuters*, April 15, 2014, available at

a grave violation of human rights committed by the Assad regime, Caesar decided to share the pictures with the international community.<sup>34</sup>

The pictures illustrated systematic brutality committed on the Syrian people, ranging from “electric shock electrodes still attached, arms or fingers removed, or genitalia removed.”<sup>35</sup> The release of these photographs to the international community is just the first step to ensure proper documentation of torture ensues. The failure of engaging in transparency and providing documentation of these events deters the accountability process.

## **Iran**

In Iran, former President Mahmoud Ahmadinejad’s personnel subjected prisoners to torture and inhumane treatment without promoting transparency or ensuring proper documentation of torture.<sup>36</sup> Victims of torture reported that Iranian authorities inflicted sexual abuse, mock executions, public lashings, and amputations, all of which are considered violations of international law.<sup>37</sup>

It was recently reported that in June of 2009, President Mahmoud Ahmadinejad’s personnel kidnapped students who peacefully protested against the government.<sup>38</sup>

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<http://www.reuters.com/article/2014/04/15/us-syria-crisis-un-idUSBREA3E1RY20140415>.

<sup>34</sup> *Id.*

<sup>35</sup> Ziv, Stav. “Photos from Syria Allegedly Show Torture, Systematic Killing,” *Newsweek*, October 21, 2014, available at: <http://www.newsweek.com/photos-syria-allegedly-show-torture-systematic-killing-278894>.

<sup>36</sup> Freedom From Torture Country Reporting Programme, “Torture in Iran Since the 2009 Election” March 2013, available at: [file:///Users/iran\\_report\\_A4\\_\\_\\_FINAL\\_web\\_615545737.pdf](file:///Users/iran_report_A4___FINAL_web_615545737.pdf).

<sup>37</sup> *Id.*

<sup>38</sup> Amnesty International, “Silenced, Expelled, Imprisoned: Repression of Students and Academics in Iran,” June 2014, available at:



Students were subjected to beatings, rape, and unfair trials.<sup>39</sup> A survivor of torture, Amir Rezaei, claimed that he was placed in solitary confinement for nearly three weeks. Guards used motorcycle chains to beat the prisoners.<sup>40</sup> Rozin Mohammadi, a female student kidnapped and tortured, testified that she experienced being called derogatory statements while consistently being threatened with rape by Ahmadinejad's personnel.<sup>41</sup> The occurrence of rape was a constant threat to the prisoners.<sup>42</sup>

The Iranian government further hindered the process of documentation as illustrated in the case of Mir Hossein Mousavi, opponent of Mahmoud Ahmadinejad in the Iranian elections of 2009.<sup>43</sup> Mousavi was arrested and imprisoned several times between the years of 2009-2012.<sup>44</sup> During his time in prison, he was beaten and forced to perform degrading acts.<sup>45</sup> He testified being hung from the ceiling by one leg and left hanging for up to five hours at time.<sup>46</sup> Amir Chami, another torture survivor, experienced 40 lashings for insulting Ahmadinejad's authority.<sup>47</sup> Both survivors were not afforded access to any form of legal representation nor was he afforded proper legal remedies.<sup>48</sup>

The Iranian government failed to allow or provide proper and timely

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[http://www.amnestyusa.org/sites/default/files/final\\_silenced\\_expelled\\_imprisoned\\_-\\_repression\\_of\\_students\\_and\\_academics\\_in\\_iran.pdf](http://www.amnestyusa.org/sites/default/files/final_silenced_expelled_imprisoned_-_repression_of_students_and_academics_in_iran.pdf).

<sup>39</sup> *Id.* at 42.

<sup>40</sup> *Id.* at 61.

<sup>41</sup> Liebelson, Dana. "The Gruesome Details of Iran's Alleged Torture of Students," *The Week*, June 2, 2014, available at: <http://theweek.com/articles/446428/gruesome-details-irans-alleged-torture-students>.

<sup>42</sup> *Id.*

<sup>43</sup> *Supra* note 38.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

documentation of these torture accounts. Furthermore, it violated its obligation under treaties and the universal prohibition of torture and was not held accountable.

### **Russia**

In Russia, victims testified accounts of torture authorized under President Vladimir Putin.<sup>49</sup> Torture methods include beatings, being hit with rifle butts, and threats of sexual violence, suffocation, and electric shock.<sup>50</sup> The risk of torture is highest during the stage of detention.<sup>51</sup> Reports indicate that Rasul Kudaev was a survivor of torture in U.S. and Russian controlled prisons.<sup>52</sup>

First, Kudaev was held in Guantanamo Bay with no formal charges on the false allegations of terrorist activities.<sup>53</sup> In 2004, he was returned back to Russia, where he was imprisoned and tortured on the grounds of alleged terrorist activities.<sup>54</sup> Rasul Kudaev faced beatings, threats of sexual violence, suffocation, and shock in Russia.<sup>55</sup> He was also held in solitary confinement and blindfolded during interrogations.<sup>56</sup> The Russian government failed to document the torture occurrences while also failing to provide the victim with adequate remedies.<sup>57</sup>

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<sup>49</sup> Shuster, Simon, "Putin's Secret Agents," *Times*, available at: <http://time.com/putin-secret-agents/>.

<sup>50</sup> Amnesty International, "Torture in Russia: 'Torture is a Traditional Component of Proof,'" June 27, 2013, available at: <http://www.amnesty.org/en/news/torture-russia-torture-traditional-component-proof-2013-06-27>.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> Human Rights Watch, "Ex-Guantanamo Detainee Seriously Ill in Jail," December 2, 2008, available at: <http://www.hrw.org/news/2008/12/02/russia-ex-guantanamo-detainee-seriously-ill-jail>.

The attempt to hinder the transparency and documentation of torture is further illustrated in the example of Said Emin Ibragimov. Ibragimov testified that he experienced torture for challenging Putin's administration by submitting a complaint to the International Criminal Court (ICC) for alleged crimes against humanity.<sup>58</sup> Ibragimov was kidnapped by what he suspected were Russian government agents.<sup>59</sup>

He recalls the agents yelling, "Stop defaming our president."<sup>60</sup> With no access to legal representation or communications with the outside world, Ibragimov experienced constant physical torture that included lit cigarettes being pressed against his skin, constant beatings, and receiving wounds from being hit with metal spikes.<sup>61</sup>

The Russian government failed to adhere to its duties as a state party to the ICCPR and CAT.<sup>62</sup> Furthermore, it hindered the process of documentation and transparency by not accounting for the violations illustrated in these two examples.

To adhere to their international obligation to prevent torture, government agencies must take steps to increase transparency and provide proper documentation on the condition of its prisons. The promotion of transparency is necessary to hold states accountable and provide remedies to survivors of torture.

## **II. Accountability**

International law requires that alleged perpetrators of torture be prosecuted. This

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<sup>58</sup> Shuster, Simon, "Putin's Secret Agents," *Time Magazine*, November 16, 2012, available at: <http://time.com/putin-secret-agents>.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Center for Civil and Political Rights, "State Parties to the ICCPR," available at: <http://www.ccprcentre.org/select-country/>.

includes persons in positions of command in addition to those who provided “legal cover of torture” as described by the Committee Against Torture in its Fifty-Third session in November of 2014.<sup>63</sup>

In U.S. controlled prisons, there has not been a criminal investigation into the allegations of torture and violations of international law authorized by the Bush administration.<sup>64</sup> Although the current administration stated its goal to shut down the illegally operated prison, 122 detainees remain in the prison.<sup>65</sup> While many of the detainees been cleared for release, many are still held and are denied information regarding their transfer.<sup>66</sup>

In Syria, political motivations hamper accountability, as Russia and China have blocked U.N. Security Council resolutions addressing the violent situation in Syria.<sup>67</sup> Regardless, this should not deter the international community from holding the perpetrators of torture accountable.

States have a duty to increase their efforts to end any violations of international law committed by military personnel who have committed human rights abuses. Governments should implement an impartial investigation of sexual violence and other torture methods committed by military or prison personnel. Witnesses and survivors are

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<sup>63</sup> *Supra* note 4.

<sup>64</sup> Human Rights Watch, “United States: Investigate Bush, Other Top Officials for Torture,” July 11, 2011, available at: <http://www.hrw.org/news/2011/07/11/united-states-investigate-bush-other-top-officials-torture>.

<sup>65</sup> American Civil Liberties Union, “Guantanamo By the Numbers,” January 15, 2015, available at: <https://www.aclu.org/national-security/guantanamo-numbers>.

<sup>66</sup> *Id.*

<sup>67</sup> “Referral of Syria to International Criminal Court Fails as Negative Votes Prevent Security Council from Adopting Draft Resolution,” *Security Council 7180<sup>th</sup> Document Meeting*, May 22, 2014, available at: <http://www.un.org/press/en/2014/sc11407.doc.htm>.

encouraged to share their stories. They must receive protection from any form of intimidation or retaliation. Furthermore, the investigation must be prompt and timely in order to prevent current violent acts of perpetuating.

Torture committed during times of public emergencies or in the name of national security interest does not overrule the universal prohibition against torture. A state's justification of torture for purposes of national security cannot counteract the obligations provided by Article 4 of the International Covenant on Civil and Political Rights<sup>68</sup> or CAT.<sup>69</sup> Holding states accountable for crimes of torture will undoubtedly assist victims in accessing remedies. This includes referring responsible state actors to the International Criminal Court in order to hold perpetrators of violence accountable.

### **III. Providing Remedies for Survivors of Torture**

States must take appropriate measures to identify and reduce the duration of pretrial detention, especially those held without valid legal charge.<sup>70</sup> Survivors of torture must be afforded adequate rehabilitation and compensation for any psychological or physical trauma experienced.<sup>71</sup> Willing international groups may provide rehabilitation services, which may range from psychological services to addressing physical trauma experienced within the prisons.

There is also a need of ensuring that the family members of torture survivors receive psychological treatment. Often, parents or family members are not notified when

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<sup>68</sup> *Supra* note 3

<sup>69</sup> *Supra* note 2.

<sup>70</sup> *Supra* note 4.

<sup>71</sup> *Id.*

their relative is kidnapped and imprisoned.<sup>72</sup> This causes severe emotional distress and families generally do not receive compensation. State parties and willing NGO's are encouraged to provide rehabilitative services.

Juveniles must also be afforded legal remedies and appropriate rehabilitation for the torture experienced in prison. State actors are strongly urged to provide rehabilitation services while also ensuring that the stories of juveniles are properly heard and documented.

Survivors of rape must be provided with appropriate psychological and physical care after their traumatic experiences. Again, state actors and members of the international community are encouraged to provide such services.

Survivors of torture must be able to share their stories without the fear of retaliation or punishment. A model of a rehabilitative project, such as *Witness To Guantanamo*, must serve to document the stories of players and former detainees.<sup>73</sup> The project serves as an outlet for torture survivors to express their experiences within Guantanamo Bay Prison. Other actors involved in the operation of the prison are interviewed in order to successfully document various pertinent narratives. The project may serve as a model to address torture in all respective states, especially in the documentation and rehabilitation phase.

In regards to prisoners released from prisons, state actors are required to ensure that transferred detainees do not experience torture from their home government once

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<sup>72</sup> Witness Against Torture Staff, "Groups to Rally Sunday At White House on 13<sup>th</sup> Guantanamo Anniversary," *Witness Against Torture*, January 10, 2015.

<sup>73</sup> Hongisberg, J. Peter "Witness to Guantanamo," <http://witnessstoguantanamo.com>.

sent back to their country of origin.<sup>74</sup> The safety of torture survivors must remain a priority once released from their prisons.

**Conclusion:**

There is a need for an impartial investigation of all potential occurrences of torture in order to gather evidence for future prosecutions of heads of state. By implementing fact-finding missions in each respective nation, a prompt investigation of systematic, widespread, and grave violations of human rights can be accomplished.

**IV. HRA Recommendations:**

Human Rights Advocates urges:

1. The Human Rights Council:
  - a. To request that the Special Prosecutor and Security Council refer people responsible for prosecution at the International Criminal Court where applicable;
  - b. Continue the Commission of Inquiry on Syria and consider using Commissions of Inquiry with respect to other countries with a history of ongoing torture.
2. State Parties:
  - a. Where it alleged that there is ongoing torture to permit the U.N. Special Rapporteur on torture to visit respective prison facilities. The Special Rapporteur should be given full access to the detainees in order to ensure

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<sup>74</sup> *Supra* note 2 at Article 3.

proper documentation.<sup>75</sup>

- b. To prosecute torture in their own national courts.

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