

## Visiting detainees to prevent torture

The events of Sept 11, 2001, had a shocking and unexpected outcome—a public debate about the absolute prohibition of torture.<sup>1</sup> Ironically, at the same time as the debate, the final steps in 10 years of negotiations of a treaty to prevent torture were underway, resulting in the adoption of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by the General Assembly of the UN on Dec 20, 2002.

The optional protocol establishes a schedule of inspections of places of detention by an international group of doctors, psychiatrists, and experts in human rights and penal management who will make recommendations to governments to prevent torture and ill-treatment. Countries that ratify the treaty are obliged to accept these visits and to establish a parallel national group who will coordinate and cooperate with the international body and maintain a dialogue with the government to secure improvements. The benefits of these visits are potentially open to all prisons and police stations in all states in the world. The onus is now on individual states to ratify the treaty and become part of the system.

The practical effect of this type of programme in preventing torture is long established. The rules of operation—visits to any place of detention at any time, anywhere, and the right to interview detainees about conditions and treatment in absolute confidence—were established by the Third Geneva Convention to govern the rules of visiting prisoners of war by the International Committee of the Red Cross (ICRC). These rules also underpin the work of another inspection body, the European Committee on the Prevention of Torture, established by the Council of Europe in 1989. The committee has made simple, but important recommendations to European governments, such as ensuring that windows of cells let in some light, and recording the denial of medical treatment, or inadequate treatment.

However, states must be willing to accept visits and to accept transparency; indeed, the unwillingness of governments to do so was the main reason why the optional protocol took so long to negotiate. Such willingness requires a transformation in how police stations, prisons, and other places of detention, are consid-

ered. As noted by the previous UN Special Rapporteur on Torture: “The basic paradigm, taken for granted over at least a century, is that prisons, police stations and the like are closed and secret places, with activities

its to all places of detention by physicians and mental health workers who can make recommendations to prevent torture should become the norm rather than the exception. Such visits can assist all states in fulfilling their

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inside hidden from public view. The international standards referred to are conceived of as often unwelcome exceptions to the general norm of opacity, merely the occasional ray of light piercing the pervasive darkness. What is needed is to replace the paradigm of opacity by one of transparency.”<sup>2</sup>

The detention by the USA of more than 600 men and an unknown number of children<sup>3</sup> in a detention camp in Guantanamo Bay, Cuba (figure) has shown that transparency and access by the outside world are pivotal in ensuring that torture is not committed and is seen not to be committed. Transparency works in favour of the detaining state as well as for detainees—the US government has been criticised from many quarters; limitations on access for consular officials and legal representatives for these detainees, and denial of access to US courts<sup>4</sup> were seen by many in the international community as suspect, as well as being condemned by human rights organisations. The visits made to Guantanamo by the ICRC were welcomed as a safeguard and an independent guarantee of detainees’ safety.

In a climate of reactivated debate about the acceptability of ill-treatment or torture of people suspected of certain crimes, safeguards against torture need to be enforced more strongly. Regular vis-

obligations with respect to the prevention of torture. The schedule of visits described in the optional protocol is not an adequate response in itself to the problem of torture; it cannot replace prosecution of alleged torturers, access to detainees by lawyers and doctors from the start of detention, and effective judicial scrutiny whenever people are detained, for whatever reason. However, it is practical and humane, and has been proved to work. Doctors everywhere should encourage their own governments—and governments around the world—to ratify the optional protocol and take this small step to prevent torture.

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- 1 Summerfield D. Fighting “terrorism” with torture. *BMJ* 2003; **326**: 773–74.
- 2 UN document A/56/156, paragraph 35. July 3, 2001.
- 3 Faul M. Official: youths held at Guantanamo Bay. *Associated Press*, April 22, 2003. <http://www.newsday.com/news/nationworld/wire/sns-ap-guantanamo-detainees.story> (accessed April 23, 2003).
- 4 Office of the High Commissioner for Human Rights. US Court decision on Guantanamo detainees has serious implications for the rule of law, says UN rights expert. Press release. March 12, 2003.

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