



WHAT IS TORTURE?

Transforming society
Securing rights
Restoring dignity

THE SAHRC'S ROLE

The South African Human Rights Commission (SAHRC) is a national human rights institution mandated by South Africa's Constitution to **protect, promote, and monitor** human rights in the country. Furthermore, the SAHRC has a mandate to investigate, report, facilitate redress where applicable, carry out research, and educate on human rights.

The SAHRC was established in 1995 and is one of many Chapter 9 institutions. Chapter 9 institutions are mandated to support constitutional democracy.

ROLE OF LAW ENFORCEMENT AGENCIES

The aim of police officials and other law enforcement and security agencies in South Africa is to enforce the law. With this responsibility comes the duty to do so lawfully and within their constitutional mandate. When police and other law enforcement officials torture or ill-treat someone, they undermine our democracy.

THE SAHRC'S VISION AND MISSION

The SAHRC's vision is to transform society, restore dignity and secure rights for all. To this end, the SAHRC, as the independent national human rights institution, is created to support constitutional democracy through promoting, protecting and monitoring the attainment of everyone's human rights in South Africa without fear, favour, or prejudice.



The SAHRC aims to transform society, secure rights, and restore dignity!

DOES SOUTH AFRICA HAVE AN INTERNATIONAL OBLIGATION TO PREVENT TORTURE?



Yes! South African has signed numerous international and regional declarations and treaties. Some of these are the:

- African Charter on Human and Peoples' Rights;
- Resolution on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines);
- Universal Declaration of Human Rights;
- International Covenant on Civil and Political Rights;
- United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UN CAT); and
- Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

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WHAT IS THE PREVENTION AND COMBATTING OF TORTURE OF PERSONS ACT?

This Law, aimed specifically at public officials or persons acting in an official capacity, allows for torture to be a crime in South Africa. This is the first time such a law has been in place in South Africa.



Before, torture was only something spoken about in the constitution, but it can now be prosecuted thanks to this new law. Often, prior to this law that criminalises torture, the offender would be charged with assault or murder when someone was tortured.



WHAT IS THE PUNISHMENT IF FOUND GUILTY OF THE CRIME OF TORTURE?

Since torture is a serious crime, it carries a punishment of imprisonment. This can include life imprisonment. This Law also states that when a person is guilty of torture, they cannot just pay a fine or have a suspended sentence.

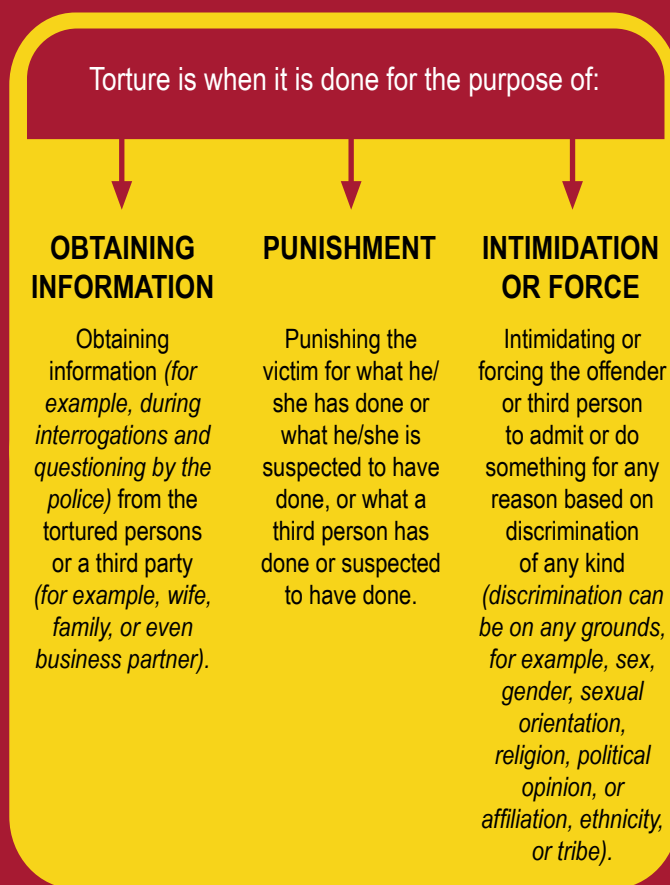
WHAT IS TORTURE?

Simply described, torture is when:

There is an intentional act causing severe pain and suffering to the victim. This suffering can be either physical and/or mental.

WHEN IS IT TORTURE?

In terms of this Act, it must be committed by a public official or other person acting in an official capacity.



Besides the conduct listed above, there are other acts that may also be considered forms of cruel, inhuman, and degrading treatment or punishment.

WHO IS A PUBLIC OFFICIAL?

A public official is a person who is acting in their official capacity as an employee of the State or a person acting on behalf of a public official or exercising a public power, or performing a public function in terms of any legislation. These can include police officers, officials in correctional centres, army officers, nurses and doctors in hospitals, teachers, and immigration officers.

WHO CAN BE FOUND GUILTY OF THE CRIME OF TORTURE?



IS TORTURE DIFFERENT TO OTHER CRIMES (ASSAULT, MAIMING, ETC.)?

Torture is an extremely serious crime that can have severe physical and psychological effects. In respect of this Act, torture can only be committed by or with a public official's help.

WHAT REMEDY IS THERE FOR VICTIMS AND SURVIVORS OF TORTURE?

The Prevention of Torture Act allows for a criminal case to be opened. Victims and survivors of torture can also open a civil case against the relevant officials. Several public institutions are obliged to investigate any acts of torture and other ill-treatment in places of deprivation of liberty. Victims are also entitled to rehabilitation, which can include restitution, compensation, satisfaction and guarantees of non-repetition.

HOW IS THE SOUTH AFRICAN GOVERNMENT RESPONSIBLE FOR PREVENTING TORTURE?

The South African government is responsible for:

- Educating the public through education and information campaigns about the law against torture;
- Educating all public officials involved in custody, interrogation, or treatment of arrested, incarcerated, or detained persons about the prohibition of torture; and
- Assisting and advising victims who want to lodge a complaint;
- Training public officials on the prevention and combatting of torture; and
- Setting up effective, appropriate, and accessible national institutions known as National Preventive Mechanisms (NPMs) to regularly visit places where people are deprived of their liberty.

CAN SOUTH AFRICA DEPORT OR EXTRADITE SOMEONE IF THEY ARE GOING TO BE TORTURED?



No. South African has an international obligation to investigate all torture allegations, including those from outside the country.