



Brussels,  
15 May 2021

Contribution by the

*International Coalition Against Electronic Torture and Robotisation of Living Beings  
(ICATOR)*

**Questions:**

**1. Challenges to accountability:** *What are the most important legal, practical and other challenges that are conducive to the current worldwide accountability gap for torture and ill-treatment?*

The right to life, as contained in article 3 of the Universal Declaration of Human Rights of December 10, 1948 by the General Assembly of the United Nations includes in particular the right to health and therefore to the protection of this.

However, even if this right is recognized by a good number of states, the fact remains that the rights contained in this Declaration are only of declarative value, without any binding force on the states, parties to this international instrument.

In addition, health protection is an exclusive competence of each state which can, depending on political values and international commitments, make health protection binding by internal legal standards.

However, the disparity in the protection of human life in each country of the world results from the fact that there is an absence both of a binding legal instrument but also of an absence of supranational jurisdiction with international scope making it possible to ensure the respect for the rule of law by every state in the world.

Nevertheless, the right to life (Article 2 of the ECHR - European Convention on Human Rights) constitutes, at the European level, an absolute right requiring States to take preventive but also repressive measures because European States have recognized this right as a right to be protected by the states themselves, since it is a question of preserving the public health of the human species.



Why such a binding convention does not exist internationally? Undoubtedly several states see in it an abandonment of sovereignty risking to undermine the policy conducted in their country. Yet the right to life has a universal value that is already recognized internationally.

Torture, inhuman or degrading treatment constitutes a direct or indirect violation of the right to life with an impact on human health. The current gap in responsibility on a global scale lies in the absence of a binding legal standard of international scope, thereby inviting states to provide, in the internal legal order of each state, for binding legal standards aimed at to prevent but also to sanction direct or indirect violations of these standards.

**2. Functions, forms and levels of accountability:** *Please identify, explain, distinguish or compare the different functions (e.g. punitive/reparative, or proactive/preventative etc.), forms (e.g. legal, political, economic or social etc.) and levels (e.g. individual, collective, institutional, State etc.) of accountability for torture and ill-treatment.*

As for the level of responsibility for torture or ill-treatment, it is clear that the responsibility must attach not only to the perpetrator of the fault but also as to the extent of this fault on the victim (s), suffering harm.

Thus, it seems clear to me that responsibility must first be seen from a political and diplomatic point of view. Indeed, the impact of a violation of the right to life, such as torture or inhuman or degrading treatment is always accompanied by a political or diplomatic reaction towards the state which does not respect the binding rule. It is therefore important at this stage, in addition to the establishment of an international court sanctioning a violation of the right to life, it is also worth creating a political or functional body for the execution of the international instrument having binding force on the regard to all states. This political or functional body allows the negligent or faulty state to promote respect for the rule of law in order to perpetuate the law over time and have a constructive and evolving approach to the law. **Political responsibility** must therefore be considered. It will therefore allow the responsible state to take preventive measures more suited to the political situation of the target country. The state must therefore legislate in order to prevent the risk of violation of the right to life (therefore the risk of torture or inhuman or degrading treatment). The international binding instrument therefore calls on the state party to fulfill a preventive function in order to prevent the risk of torture or inhuman or degrading treatment.

Responsibility must also be **criminal** given that the inhuman and degrading treatment harms the physical, psychic or mental health of the human being (International instrument contributes to the **repressive or punitive function** of a rule of law) and that the damage which result must be fully repaired (the **restorative** function of the rule of law); the **civil** liability of the perpetrator must also be brought about by the victim, regardless of the fate that may be reserved by the criminal action as to its outcome.





Individual or collective actions must be able to be carried out and the state's internal remedies must first be exhausted in order to seize the international body. Should we also exhaust regional bodies when they exist? The answer is yes given that regional instruments such as the European Convention on Human Rights include regional (Europe-wide) protection in its European-wide legal instruments such as the right to life or the right to life. 'prohibition of torture and / or inhuman and degrading treatment

**3. Rights of victims:** *Who should be recognised as a victim of torture and ill treatment, and what are – or ought to be – victims' procedural and substantive rights within accountability processes? Who else, if anyone, should be entitled to have access to and/or participate in accountability processes and mechanisms?*

The rights of victims of acts of torture or of inhuman or degrading treatment must be recognized for all those who are victims of these acts, the legal content of which must be defined in such a way as to facilitate its application in practice. As soon as the facts of torture are established or are likely to be restored, the victim's status must be recognized for the injured person and this, on a provisional basis so as not to suffer from the slowness of justice, in order to carry out a life confirms human dignity. It is therefore also essential to facilitate the exercise of procedural rights in a simple, transparent and fair trial manner.

#### **4. Recommendations:**

*Based on your experience and/or analysis of accountability in (2) and (3) above, what are the most effective mechanisms / measures and/or good practices that can or should be taken to respond to the challenges you identified in (1) so as to ensure accountability for torture and ill treatment worldwide » ?*

Accountability for acts of torture or inhuman and / or degrading treatment inevitably requires the passage of binding legal acts both at the international level and in the internal legal order of each State party to the international legal instrument to be adopted.

*Melanie Vritschan*

Melanie Vritschan  
President of ICATOR



Signing in support:

Harald Brems, ICATOR Board Member  
Berlin, Germany

Galina Kurdina, ICATOR Board Member  
President of the Organization of Victims of Psychotronic (Mind Control) Weapons

Craig Laforest, Observer to the ICATOR Board  
Woolloomooloo, New South Wales  
Australia

Jacqueline Menanteau, ICATOR Board Member  
Paris, France

Toshiko Namiki, Observer to the ICATOR Board  
Tokyo, Japan

Georges Peers de Nieuwburgh, ICATOR Board Member  
Brussels, Belgium

Quam Porto-Rico, ICATOR Board Member  
Brussels, Belgium

Derrick Robinson, ICATOR Vice-President  
President of People against Covert Torture and Surveillance, International (PACTS)  
California, USA

Wang Qi, Observer to the ICATOR Board  
Hangzhou City, Zhejiang Province  
China