## Preventing Torture

A Study of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

and ROD MORGAN

## Contents

Table of Cases  Table of Principal Treaties Declarations Codes of Conduct and	xviii
Table of Principal Treaties, Declarations, Codes of Conduct, and other International Instruments	xxii
A Note on the Citation of CPT Documents	xxvi
List of Tables .	xxvii
Abbreviations	xxviii
Abbreolutions	XXVIII
1 The Decline and Re-emergence of Torture	1
1 Torture in Ancient Times	1
2 Torture in the Roman-Canonical Tradition	3
3 The Enlightenment and the Emergence of the Modern State	7
4 Torture in the Twentieth Century: Re-emergence and	
Explanation	13
5 Explaining Contemporary Torture	21
2 Torture and the Liberal Democratic State: Three Modern	26
Case Studies	26
1 Algeria 1954–62	27
2 Northern Ireland and the 'Troubles' 1963–94	32
3 Israel	41
4 Conclusions: Classical and Contemporary Torture	52
3 The Prohibition of Torture and Inhuman or Degrading	
Treatment or Punishment	61
1 The Web of Prohibition: an Overview	61
2 Article 3 of the ECHR: Drafting the Text	69
3 Understanding Article 3 of the ECHR:	
'Three in One' or 'One in Three'?	73
4 The Thresholds of Suffering in the Jurisprudence of	
the ECHR	79
5 Article 3 and Ill-Treatment in Detention	98
4 The Origina and Duesting of the Frances Commention for	
4 The Origins and Drafting of the European Convention for the Prevention of Torture and Inhuman or Degrading	
Treatment or Punishment	106
1 Gautier and the Swiss Committee Against Torture	106
2 The Council of Europe	112
3 Drafting the Convention	117
4 The Perceived Scope of the Convention	125

xvi Contents

	<ul><li>5 Restrictions upon the Right of Visit</li><li>6 Other Issues</li><li>7 Conclusion</li></ul>	128 133 139
5	The CPT: Membership, Back-up Services, and Modus Operandi  1 The People Involved  2 The Organization of Visits  3 Conducting Visits  4 The CPT and the Mass Media  5 Reporting on Visits  6 Dialogue Conducted Following Visits	142 143 164 191 196 198 203
6	Findings of Ill-Treatment  1 CPT Reports: The Political Reality  2 Establishing Ill-Treatment  3 Physical Ill-Treatment in Police Custody: The Allegation and Risk Continua  4 Physical Ill-Treatment in Non-Police Settings  5 The Use of Terms: The Torture Threshold  6 The Use of Terms: Inhuman and Degrading Treatment  7 Some Specific Problems  8 Conclusions Regarding the CPT's Findings and Use of the Terms 'Torture' and 'Inhuman or Degrading'	214 214 216 222 230 233 241 247
7	Police Custody: Procedural Safeguards  1 The Principal Safeguards  2 Other Procedural Safeguards	257 257 285
8	Conditions of Detention  1 Methodological Issues  2 The Standards Applied: Police Custody  3 The Standards Applied: Imprisonment	295 295 304 307
9	<ul> <li>Current Assessment and Future Prospects</li> <li>1 Custodial Ill-treatment and Accountability in Contemporary Europe: the Need for the CPT</li> <li>2 The ECPT: An Operational Assessment</li> <li>3 Perceptions of the CPT</li> <li>4 The Future Operations of the CPT</li> <li>5 Conclusion</li> </ul>	316 316 334 352 362 380
A	A. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment  B. Protocol No 1  C. Protocol No 2	383 383 389 391

Contents	xvii
Appendix 2: Explanatory Report	394
Appendix 3: Rules of Procedure	409
Appendix 4: Tables of Signatures and Ratifications  A. European Convention for the Prevention of Torture and	422
Inhuman or Degrading Treatment or Punishment B. Protocol No 1 C. Protocol No 2	422 423 424
Appendix 5: Lists of CPT Visits and of Resulting Reports and Responses, 1990–97  A. In Alphabetical Order  B. In Date Order	426 426 429
Appendix 6: CPT Membership  Members of the CPT as at 31 December 1997  B. List of Past and Present Members and their  Areas of Expertise	433 433 434
Appendix 7: CPT Statements of Standards  A. Some Substantive Issues: Police Custody and Imprisonment B. Health Care Services in Prisons C. Foreign Nationals Detained under Aliens Legislation	436 436 442 450
Appendix 8: CPT Document Citation  A. Table of CPT Visits, Reports, and State Responses  B. CPT General Reports	454 454 457
Bibliography Index	458 469