



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Consideration of reports submitted by States
parties under article 19 of the Convention**

Initial reports of States parties due in 2003

The Holy See*

[7 December 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

Abbreviations

CAT	Convention against Torture
CCC	Catechism of the Catholic Church
CCEO	Codex Canonum Ecclesiarum Orientalium
CDF	Congregation for the Doctrine of the Faith
CHCI	Catholic Health Care Institutions
CIC	Codex Iuris Canonici
CIDPT	Cruel, inhumane and degrading punishment or treatment
CL	Christifideles Laici
CPP	Code of Penal Procedure
CSDC	Compendium of the Social Doctrine of the Church
EV	Evangelicum Vitae
GS	Gaudium et Spes
HG	Humani Generis
ICCPPC	International Commission for Catholic Prison Care
IDV	Instruction Donum Vitae
INTERPOL	International Organization of Criminal Police
IGOs	Intergovernmental organizations
NGOs	Non-governmental organizations
OSCE	Organization for Security and Cooperation in Europe
RH	Redemptor Hominis
UDHR	Universal Declaration of Human Rights
VCS	Vatican City State

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1-3	5
II. General information	4-14	5
A. Vatican City State	4-10	5
B. Statistics	11-14	8
III. The Convention against Torture	15-61	9
A. Introduction	15	9
B. Treaty provisions	16-61	9
Article 1- Definition of torture	16	9
Article 2- Prevention	17-22	10
Article 3- Expulsion, return or extradition	23-28	10
Article 4- Crime of torture	29-30	11
Article 5- Jurisdiction	31	11
Article 6- Investigation	32-34	11
Article 7- Obligation to prosecute	35-38	12
Article 8- Torture as an extraditable offence	39	13
Article 9- Mutual judicial assistance	40-42	13
Article 10- Training of law enforcement personnel and medical staff	43-49	14
Article 11- Systematic review of rules and methods	50	14
Article 12- Prompt and impartial investigation	51-55	15
Article 13- Complaints and compensation	56	15
Article 14- Rehabilitation and reintegration	57	16
Article 15- Statements and confessions	58	16
Article 16- Prohibition of acts of cruel, inhuman or degrading treatment or punishment	59-61	16
IV. Affirmation of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment in the teachings and activities of the Holy See	62-86	16
A. Introduction	62	16
B. Treaty issues	63-86	17
Prohibition against torture and other cruel, inhuman or degrading treatment or punishment (arts. 1, 4 and 16)	63-65	18
Prevention (art. 2)	66-70	18
Exceptions or justifications (art.2)	71-72	21
Expulsion, return or extradition (art.3)	73	21

Administration of justice and mutual judicial assistance (arts. 5- 7, 9, 12 and 15).....	74-77	21
Training and systematic review of Rules and methods (arts. 10 and 11).....	78-80	22
Victims and rehabilitation (arts.13 and 14).....	81-86	22

Annexes **

** Annexes can be consulted in the files of the secretariat.

I. Introduction

1. The Holy See submits its initial report under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which it acceded to on 22 June 2002 on behalf of the Vatican City State (VCS). Indeed, the Holy See concludes treaties in its name, and on behalf of the VCS. The Holy See exercises complete sovereignty over VCS and represents it in international relations (Fundamental Law of 2000, arts. 1-2).

2. The Holy See filed an Interpretative Declaration under CAT, in which it stated that “in becoming a party to the Convention on behalf of the Vatican City State, [it] undertakes to apply it insofar as it is compatible, in practice, with the peculiar nature of that State.” Consequently, the Holy See takes note of the guidelines on the form and content of initial reports (CAT/C/4/Rev.3) and will follow them insofar as they are applicable, given the distinctive nature of VCS.

3. The Interpretative Declaration of the Holy See also stated the following:

(a) “The Holy See considers [CAT] a valid and suitable instrument for fighting against acts that constitute a ‘serious offence against the dignity of the human person;

(b) In recent times the Catholic Church has consistently pronounced itself in favour of unconditional respect for life itself and unequivocally condemned ‘whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself’ (Second Vatican Council, Pastoral Constitution *Gaudium et Spes*, (GS) 7 December 1965);

(c) The law of the Church [e.g. the Code of Canon Law (CIC)1983 and the Code of Canons of the Eastern Churches,(CCECO) 1990] and the “organic presentation of the essential and fundamental contents of Catholic doctrine, as regards both faith and morals” (Catechism of the Catholic Church, (CCC), at 11) enumerate and clearly identify forms of behaviour that can harm the bodily or mental integrity of the individual, condemn their perpetrators and call for the abolition of such acts;

(d) On 14 January 1978, Pope Paul VI, in his last address to the diplomatic corps, after referring to the torture and mistreatment practiced in various countries against individuals, concluded as follows: ‘How could the Church fail to take up a stern stand ... with regard to torture and to similar acts of violence inflicted on the human person?;

(e) Pope John Paul II, for his part, did not fail to affirm that ‘torture must be called by its proper name’ (Message for the Celebration of the World Day of Peace, 1 January 1980). He expressed deep compassion for the victims of torture (World Congress on Pastoral Ministry for Human Rights, Rome, 4 July 1998), and in particular for tortured women (Message to the Secretary-General of the United Nations, 1 March 1993).

(f) In this spirit the Holy See wishes to lend its moral support and collaboration to the international community, so as to contribute to the elimination of recourse to torture, which is inadmissible and inhuman.”

II. General information

A. Vatican City State

4. The nature and purpose of VCS is set out below:

(a) VCS was constituted a State with the Lateran Treaty of 1929 to ensure the Holy See's absolute and evident independence and to guarantee its indisputable inherent sovereignty in the international realm for the accomplishment of its worldwide moral mission, including all actions related to international relations (see Lateran Treaty, preamble and articles 2-3). In other words, the primary function of VCS is to ensure the absolute freedom and independence of the Holy See.

(b) The Holy See is a sovereign and unique subject of international law having an original, non-derived legal personality independent of any authority or jurisdiction, which exercises its sovereignty over the territory of VCS. The Holy See refers to the Roman Pontiff but also to the institutions of the Roman Curia (within the territorial jurisdiction of VCS), that proceed from him, unless it is otherwise apparent from the nature of the matter or the context of the words (see CIC, can. 361; CCEO, can. 48).

5. Presence in the International Community. Since 1929, the VCS has received international recognition of its particular international nature which is intricately related to, but separate and distinct from the international nature of the Holy See. It has never been confused with the Holy See. For example, following the loss of the traditional Papal States in 1870 until the establishment of VCS in 1929, the Holy See continued to act as a subject of international law by concluding concordats and international treaties with States, participating in international conferences, conducting mediation and arbitration missions, and maintaining both active and passive diplomatic relations.

(a) The VCS participates as a member of intergovernmental organizations through the Holy See, which acts on its behalf (e.g. Universal Postal Union, International Telecommunications Union, International Grains Council, International Telecommunications Satellite Organization, European Telecommunications Satellite Organization; European Conference of the Postal and Telecommunications Administration (see *Annuario Pontificio* 2011, p. 1341);

(b) The VCS ratifies or accedes to bilateral and multilateral agreements through the Holy See, which acts on its behalf, following international law and practice through the Holy See, which acts on its behalf (e.g. Convention on the Recognition and Enforcement of Foreign Arbitral Awards; Convention Relating to the Status of Refugees; Convention on the Rights of the Child; Convention on Cluster Munitions;

(c) The VCS is a regular member of various international non-governmental organizations through the Holy See, which acts on its behalf (e.g. International Astronomical Union; International Institute of Administrative Sciences; International Technical Committee for the Prevention and Extinction of Fire; World Medical Association; International Council on Archives; Interpol (see *Annuario Pontificio* 2011, p. 1342).

6. Governance. VCS is under the sovereignty of the Roman Pontiff (Lateran Treaty art. 26; Fundamental Law of 2000, art. 1). The fullness of legislative, executive and judicial power resides in the Roman Pontiff as Sovereign and Head of State who represents the VCS in relations with States and other subjects of international law through the Secretariat of State (Fundamental Law, 2000, arts. 1-2). The Roman Pontiff delegates his legislative authority to a Commission of Cardinals (the Pontifical Commission for VCS) and his executive authority to its Chair, the Cardinal President, save in those matters reserved to the Roman Pontiff or other competent body (Fundamental Law, 2000, arts. 3, 5). Judicial power is exercised in the name of the Roman Pontiff through the tribunals of VCS (Fundamental Law, 2000, arts. 15, 16, 19) in a Single Judge, Tribunal, Court of Appeal and Court of Cassation (Supreme Court) (Law N. CXIX, 1987, art.1). The Gendarmerie Corps of VCS (Vatican Police Force) is part of the Department of Security Services and Civil Protection of the Governorate (see *infra* paragraph 9).

Sources of Law

7. The sources of law are as follows.

(a) **Primary Source.** Canon law is the primary source of the laws of VCS and the primary criterion for interpretation, although not every aspect of canon law is applicable in the temporal governance of VCS (see Law of 1 October 2008, N. LXXI, article 1 (1), on the sources of law, in force 1 January 2009, amended the Law of 7 June 1929, N. II as regards the sources of law). Canon law, in comparison with the laws of other States, is a complex unity of divine positive law, divine natural law and human law which reflect and express the Catholic Church: its origin, means, spiritual and moral mission, organizational structure, supernatural end, and spiritual and temporal goods. The divine positive law and divine natural law (the latter, also referred to as simply “natural law”) are those immutable norms presented in the Decalogue and knowable through right reason. They indicate the primary and essential norms regulating the moral life, as interpreted by the Church’s teaching authority and set out in the Catechism of the Catholic Church (CCC). In confronting particular circumstances purely human laws are developed which are mutable. They may include elements borrowed from the civil law, but human law can never breach divine positive or divine natural law;

(b) **Principal Sources.** The principal sources of law are the Fundamental Law and the laws for VCS enacted or issued by the Supreme Pontiff, the Pontifical Commission or other authority upon which he has conferred legislative power (see Law of 1 October 2008, N. LXXI, article 1 (2));

(c) **Supplementary Sources.** Another source of law is the supplementary law, that is, the laws of Italy which were received into law by the competent Vatican authority (see Law of 1 October 2008, N. LXXI, article 3.1). For example, the 1889 Italian Code of Penal Law (CP) and the 1913 Italian Code of Penal Procedure (CPP), which were in force at the time of the Lateran Pact of 1929, were received, modified and integrated into the legal system by the laws of VCS (see Law of 1 October 2008, N. LXXI, articles 7, 8). However, there are limitations to the applicability of supplementary law, since it must not be contrary to precepts of divine positive law and divine natural law, nor to general principles of canon law nor to the norms of the Lateran Pact and subsequent agreements, and the supplementary law always must be applicable to the existing state of facts in VCS (see Law of 1 October 2008, N. LXXI, article 3.2);

(d) **International Law as a Source of Law.** The law of VCS ought to be in conformity with general norms of international law and norms deriving from treaties and other agreements to which the Holy See is a State party; it being understood that canon law remains the primary source of the law of VCS and the primary criterion for interpretation (see Law of 1 October 2008, N. LXXI, article 1.4).

8. **Citizenship, Residence and Access.** VCS has a small population made up of citizens and residents (non-citizens). Citizenship in VCS is primarily based on one’s function and in certain circumstances others can obtain citizenship due to their relationship with a person who has citizenship (see Law of 7 June 1929, N. III, arts. 1, 3-5; see Law of 1 October 2008, N. LXXI, article 4.a). Access to VCS and the activities carried out therein are severely restricted (see Law of 7 June 1929, N. III, articles 12-32).

9. **Security.** The Gendarmerie Corps is a special police force which has general responsibility for security and public order that encompasses all regular police duties including criminal matters (Law of 16 July 2002, N. CCCLXXXIV, art. 13.3) If necessary, the Pontifical Commission of VCS can request assistance from the Pontifical Swiss Guards (Fundamental Law, 14), which is a body of 110 armed guards that provides security services for the Supreme Pontiff and his residence (Disciplinary and Administrative Regulations of the Pontifical Swiss Guards, 2006, arts. 7, 1).

10. Crime and Punishment in VCS. The majority of crimes prosecuted in VCS are ones of a less serious nature, and alternative sanctions to imprisonment are generally applied. For example, a Single Judge has the discretion to impose a fine in place of imprisonment in cases of “reati contravvenzionali” (crimes of less gravity) as well as other crimes carrying a punishment of a maximum not exceeding six months imprisonment; such decisions take into consideration the nature of the crime committed and the particular circumstances of the case (Law of 14 December 1994, n. CCXXVII, art. 1, see article 8 of the Law of 10 January 1983, n. LII). Punishment is not solely retributive but also serves an educational and rehabilitative function. It is noteworthy, that this is consistent with the primary end of canon law, namely, the salvation of souls. Needless to say, capital punishment does not exist in VCS. VCS has no penitentiary system, but pursuant to the Lateran Treaty, article 22, may request the Italian State to try and punish offences committed within VCS. For example, Mr. Mehmet Ali Agca was tried, convicted and sentenced by the Italian authorities for attempting to murder Pope John Paul II. The Italian State may also be requested to punish offences committed and tried in VCS. In addition to, or in substitution of any fine imposed, the Single Judge may temporarily suspend an authorization or administrative concession, and in cases that do not involve citizens, residents or persons in active service, or he may temporarily prohibit one’s access to VCS (Law of 14 December 1994, n. CCXXVII, art. 3). The decision or decree may be appealed by the accused or the Promoter of Justice before a Tribunal of Judges (Law of 14 December 1994, n. CCXXVII, art. 4).

B. Statistics

11. Population of VCS: As of 2012, there are 588 citizens of VCS, and 354 of them are diplomats and members of the Pontifical Representatives to Foreign States, who enjoy citizenship, but do not reside in VCS. This means that only 234 citizens actually inhabit VCS. In addition to citizens, there are 217 residents (non-citizens) bringing the total number of inhabitants to 451 (report of the Governorate of VCS, Office of the Civil State, Registrar and Notary, 2012)

12. Visitors. In 2009, there were about 18 million pilgrims and tourists visiting VCS, in particular, St. Peter’s Basilica and the Vatican Museums (Id., 53).

13. Administration of Justice. In 2009, there were 474 civil and 446 penal matters registered; very few of them involved citizens or inhabitants of VCS (Id. 51). The majority of crimes committed in VCS are property related crimes carried out by those who have gained access as one of the 18 million visitors to VCS each year. In regard to these latter cases, VCS has provided international judicial assistance in the form of letters rogatory, and other means (Id.)

14. Media Services. The Holy See maintains that torture and ill treatment are crimes that offend the inherent dignity of the human person, who is entitled to respect, especially from the State as the guardian of the common good. The Holy See calls for the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (CIDTP) are frequently transmitted through its media services (e.g. press office, newspaper, radio and television) which are based in VCS. These media programmes, in turn, are translated into different languages and reproduced by numerous other media outlets throughout the world.

(a) Vatican Radio. From 2002 to 2009, there were 996 news programmes or interviews concerning the opposition to torture broadcast in Italian, Spanish and Portuguese. Another 1030 of such programmes or interviews were broadcast in other languages such as English, and French (see attachment I);

- (b) L'Osservatore Romano Newspaper. From 2002 to 2009, twenty-one articles/interviews/documents were published in the daily edition regarding the position of the Church against torture. (see attachment II);
- (c) Vatican Television Center- From 2002 to 2009, various programmes were focused on the problem of torture and ill treatment, with specific attention to the plethora of Christian priests, religious, and lay persons, who were mutilated and killed because of their religious beliefs in the distant, and not so distant, past;
- (d) Vatican Website (www.vatican.va). This website contains about 371 references to papal statements and other documents condemning torture in English, French and other languages of central Europe, as well as 224 in Italian, Spanish and Portuguese;
- (e) Holy See's Press Office Daily Bulletin. From 1991 to 2009, 40 articles about the evils of torture were distributed in four languages (English, Spanish, French and Italian) to about 52, 000 daily subscribers;
- (f) Vatican Information Services. Established in 1991, this news service provides information about the Magisterium (the teaching office of the Catholic Church composed of the Pope and Bishops), the pastoral activities of the Pope and the Roman Curia, as well as official statements of the Holy See. It is available in English, Italian, Spanish and French;
- (g) Vatican Publishing House. The Vatican press has published numerous volumes (magisterial documents, autobiographies and biographies, etc.) in various languages highlighting or testifying to the evils of torture and ill treatment of the human person as grave violations of fundamental human rights flowing from the inherent dignity of the human person, who is made in God's image and likeness. These publications, in turn, are distributed throughout the world through agreements with other publishing houses;
- (h) Vatican News (www.news.va). There are numerous news stories dealing with the topic of torture including the condemnation of torture and mutilation of children and juveniles in prisons.

III. The Convention against Torture

A. Introduction

15. The Special Nature of the Vatican City State (VCS). As previously mentioned, any analysis of the laws of VCS must always be done in light of its proper nature as acknowledged in the Declaration the Holy See entered under the Convention against Torture (CAT). As previously mentioned: "The Holy See, in becoming a party to the Convention on behalf of the Vatican City State, undertakes to apply it insofar as it is compatible, in practice, with the peculiar nature of that State."

B. Treaty provisions

Article 1- Definition of torture

16. A Committee has been established to review and amend the penal law of VCS. To this end, a preliminary draft of amendments to the penal law of VCS is under consideration, which includes the definition of torture required by CAT.

Article 2- Prevention

17. There are no legal or administrative measures that may be adopted which would permit derogation from the prohibition against torture and other CIDTP in cases of suspected acts of terrorism, death threats against the Pope, security of the State, internal instability or any other public emergency. A preliminary draft of amendments to the penal law of VCS reaffirms the aforementioned principles.

18. No one may rely upon a defence of superior orders or due obedience as a justification for torture or other CIDTP. Every member of the Gendarmerie Corps may lawfully oppose an order of his superior to commit acts of torture or other CIDTP, because such an order would offend principles of divine positive and divine natural law (see paragraph 7 (a), supra, of this report as well as the discussion infra chapter IV). In addition, the new draft amendments to the penal law of VCS which has expressly excluded such a defence or justification.

19. The accused has a right to speak to his or her consulate, to talk with a lawyer, to visit a doctor when necessary, and contact his or her family pursuant to articles 73, 196, and 388 CPP.

20. As previously mentioned, VCS has no penitentiary, but rather two cells, and a project to build a third cell at the headquarters where the Department of Security Services and Civil Protection is located. The cells have rarely been used, and no problems of overcrowding or inter-prisoner violence have ever occurred. As stated above, alternative measures to incarceration are also employed, such as fines, conditional release, judicial pardon, suspended sentence, and prohibiting access to VCS (see Law of 21 June 1969, N. L).

21. In specific regard to vulnerable persons, children are criminally responsible at the completion of age 16, but criminal law promotes their return to parents or legal guardians as well as their rehabilitation and re-education (see Law of 21 June 1969, N. L, articles 7, 14, 16, 17). Special attention is also given to persons suffering from various disabilities (see Law of 21 June 1969, N. L, arts. 7, 12, 15).

22. In regard to an accused person to be remanded to the Italian State per article 22 of the Lateran Treaty, he or she would be detained in a detention cell of VCS until his or her transfer. It should be noted, that Italy forbids torture, other CIDPT and recognizes fundamental human rights for accused persons (see fourth periodic report of Italy (CAT/C/67/Add.3), 11 May 2005).

Article 3- Expulsion, return or extradition

23. As previously noted, VCS has no penitentiary system but under article 22 of the Lateran Treaty may request Italy to punish the offences committed within VCS.

24. Persons are extradited to the Italian authorities based on the double criminality rule according to article 22 of the Lateran Treaty. On the other hand, CAT, article 8 can also be used as the legal basis to extradite persons to other State Parties. The supplementary law also permits the Promoter of Justice to request extradition (arts. 9, CP and arts. 640-650, CPP). This latter law, however, like all supplementary laws, is subject to certain limitations. It cannot be contrary to precepts of divine positive and divine natural law, nor to general principles of canon law nor to the norms of the Lateran Pact and subsequent agreements, and it must always be applicable to the existing state of facts in VCS (see Law of 1 October 2008, N. LXXI, article 3.2).

25. Cases of expulsion, return or extradition are decided by the Tribunal of VCS (Law n. L., 21 June 1969, art. 27, paragraph 4: see articles. 640-650, CPP).

26. VCS would not expel, return or extradite a person to a State where the person might be tortured or subject to CIDTP according to article 641, CPP. The new draft amendments to the penal law of VCS has included provisions on this issue.

27. To date, there has been no case in VCS where expulsion, return or extradition of a person to a State resulted or might have resulted in his or her torture or subjection to other CIDTP.

28. To date, no request has been made to extradite any person alleged to have committed acts of torture and other CIDPT.

Article 4- Crime of torture

29. As noted supra in paragraph 16 of this report, a Committee has been established to review and amend the penal law of VCS. To this end, new draft amendments to the penal law of VCS are under consideration, which will render torture a crime and give it an appropriate punishment.

30. In the interim period, before the amended law enters into force, under the supplementary law of VCS, a public official or other person acting in an official capacity could be charged and convicted of offences such as homicide pursuant to articles 364-371 CP, punishable by imprisonment from 18 to 21 years or more depending upon the circumstances; or assault resulting in damage to body, mind or overall health according to articles. 372-375 CP, punishable by imprisonment from one month to 10 years depending upon the circumstances. Persons may also be charged and convicted of crimes pertaining to unlawful deprivation of one's liberty pursuant to articles. 145-156 CP. In this regard, pursuant to 147 CP, a public official who has abused his office or the prescriptions of the law in denying an individual his or her liberty may be imprisoned from three months to 15 years depending upon the circumstances. Finally, a public official may be prosecuted for abuse of authority and violation of public duties according to articles. 175-181, CP, punishable by fines or incarceration up to 30 months depending upon the offence, and aggravating circumstances.

Article 5- Jurisdiction

31. There are no special provisions or procedures as regards torture or other CIDTP in the laws of VCS. However, as regards the crimes listed supra in paragraph 30, the following points are relevant:

(a) VCS prosecutes crimes committed on its territory under its jurisdiction or on board an aircraft registered to VCS, according to article 3 CP, save those cases prosecuted by Italy under article 22 of the Lateran Treaty;

(b) VCS prosecutes crimes in cases where the alleged offender is a citizen or resident and has committed offences elsewhere, taking into consideration the limitations in arts. 4, 5, 6, 7 CP;

(c) VCS promotes prosecution of crimes when the victim is a citizen or resident of VCS, regardless of where the crime was committed, pursuant to article 6 CP;

(d) The competence of the Tribunal of VCS extends to international extraditions and letters rogatory (Law n. L., 21 June 1969, article 27; see CPP, articles 637-653).

Article 6- Investigation

32. When members of the Gendarmerie Corps take an accused person into custody, they must immediately notify the judicial authority in VCS, who in turn must consider whether to confirm the arrest and detention and then proceed to penal investigation. Therefore, any

limitations on the personal liberty of accused are ordered and supervised by the judicial authority in VCS (arts. 173, 174 and 304, CPP).

33. Some members of the Gendarmerie Corps in their capacity as “polizia giudiziaria” (investigating police) must act in accordance with articles 162-175 CPP.

34. As previously noted, the accused person has the right to speak to his or her Consulate, to talk with a lawyer, to see a doctor when necessary, and contact his or her family as provided for in article 163 CPP.

Article 7- Obligation to prosecute

35. Persons may be prosecuted for the offence of homicide (arts. 364-371, CP), crimes involving personal injury (arts. 372-375, CP), relevant offences against individual liberty (arts 145-156, CP), or crimes involving abuses of authority by public officials (arts. 175-181, CP).

36. Any prosecution of an accused involves the following phases as set out in CPP:

- (1) Statements and evidence collected during the police investigation;
- (2) Preliminary judicial investigation per “istruzione sommaria” (summary procedure) carried out by the Promoter of Justice or per “istruzione formale” (formal procedure) conducted by the Investigating Judge;
- (3) Indictment;
- (4) Trial;
- (5) Decision;
- (6) Appeal to the court of appeals; and
- (7) Appeal to the highest court.

37. The 1889 CP and the 1913 CPP are attentive to the rights of the person, and measures are in place to ensure fair treatment of the alleged offender at all stages of the proceedings. The following legal principles are especially noteworthy:

(a) According to divine natural law, which forms part of canon law (the primary source of law in VCS), one is presumed innocent until proven guilty (see supra paragraph 7 (a) of this report);

(b) The accused person is entitled to be informed of the charges, pursuant to articles 261 and 282 CPP;

(c) The accused person is entitled to notice of the evidence in support of these charges, pursuant to articles 261 and 282 CPP;

(d) The accused person has the right to be represented by counsel, pursuant to articles 77 and ff., CPP;

(e) According to divine natural law, one has the right to be tried within a reasonable amount of time (see paragraph 7 (a), supra, of this Report). For example, recently, a citizen of VCS who was charged with aggravated theft was tried within five months;

(f) The accused person has the right to a full and fair defence according to article 72 CPP;

(g) The accused person has the right to a public hearing per articles 373 and ff. CPP;

(h) The accused person is temporarily detained in cases where he will be remanded to Italy according to article 22 of the Lateran Treaty;

(i) In many other cases, persons are not detained, and alternative measures are adopted, such as fines or orders prohibiting re-entry into VCS (see. Law of 21 June 1969, N. L art. 43);

(j) Pretrial detention has a maximum of 50 days (art. 325 CPP). The period of time may be increased in cases where the “fase istruttoria” is particularly difficult (art. 326, CPP).

(k) The defendant has the right of appeal pursuant to articles 477 and 500 CPP.

38. If an official of VCS were to commit a crime mentioned supra in para. 30, the case would be investigated by the Promoter of Justice according to the process explained supra in paragraph 36 and would include recourse to immediate medical examinations and forensic expertise (art. 399, CPP). It is within the discretion of the judicial authority to propose to the President of the Governorate that the alleged offender should be suspended from his or her functions pending investigation and/or prohibited from contacting the victim. In addition, the Commander of the Gendarmerie Corps may also request the President of the Governorate to suspend a member from service in cases where penal and/or disciplinary procedures are pending (Regulations of the Gendarmerie Corps, Decree of the President of the Governorate N. 476431 of September 18, 2008, art. 55).

Article 8- Torture as an extraditable offence

39. See the discussion supra in paragraphs 23 to 28 of this report. In addition, as already noted, one can rely upon article 8 of CAT for the legal basis of extradition.

Article 9- Mutual judicial assistance

40. To date, the Tribunal of VCS has never been involved in providing assistance in any foreign prosecution for the crime of torture and/or related crimes of attempting to commit and complicity in torture and/or other CIDPT.

41. As previously mentioned, the majority of crimes committed in VCS are property crimes carried out by those who have gained access as one of the 18 million visitors to VCS each year. This means that most of the said crimes have a trans-national character. The jurisdictional issues are resolved by friendly agreement between the judicial authorities of VCS and those from other States by formal agreement (e.g. Convention for the Notification of Acts in Civil and Commercial Matters between the Holy See and Italy, 6 September 1932) or by diplomatic means, especially as regards penal matters (see report of the Promoter of Justice on the Occasion of the Inauguration of the Judicial Year 2010, Tribunal of the State of Vatican City State, pp. 77-80).

42. International terrorism has required new forms of cooperation including training and information exchange with a view to improving prevention and security measures in VCS for the ultimate safety of the Holy See and also for the purposes of promoting international collaboration. For example, in 2006, a member of the Gendarmerie Corps participated in the Organization for Security and Cooperation in Europe (OSCE) Chiefs of Police Meeting. In 2008, the International Organization of Criminal Police (INTERPOL) approved VCS as a participant in this organization (see report of the Promoter of Justice on the Occasion of the Inauguration of the Judicial Year 2010, Tribunal of Vatican City State, pp. 80-81).

Article 10- Training of law enforcement personnel and medical staff

43. Members of the Gendarmerie Corps are involved in the criminal investigation, custody and interrogation of persons under State or official control according to articles 162-175 CPP.

44. Each member must successfully meet the specific hiring and training criteria according to the “Regulations of the Gendarmerie Corps,” and the “Regulations of the Direction of Security Services and Civil Protection” promulgated for a trial period of two years by Decree of the President of the Governorate n. 476431 and n. 476433 of 18 September 2008, respectively.

45. According to the “Regulations of the Gendarmerie Corps,” one must undergo a pre-selection evaluation (art. 11, Reg.), which considers various aspects of the person: psychological and physical health, aptitude, general education, religious formation and knowledge of foreign languages (art. 11, (2), (3), (4), Reg.) Then, upon successful completion of this evaluation, one is assumed as a Cadet and must undergo a trial period of two years (art. 15, Reg.). During this period, the Cadet must study theoretical and practical matters concerning the different activities carried out by the Gendarmerie Corps, including the laws of VCS (art. 16). He is tested on his knowledge by way of final exams and only upon successful completion of the same can he become a full member of the Gendarmerie Corps (art. 16, Reg.).

46. Other relevant criteria pertaining to hiring are found in article 9 of the “General Regulations for Personnel within VCS”, and article 10 of the “Regulations for the Gendarmerie Corps.” For example, each member of the Gendarmerie Corps makes a profession of the Catholic Faith and takes an oath promising faithful service to the Roman Pontiff, and his legitimate successors, and obedience to the Commandant, and other superiors, and diligent fulfilment of the duties of his office (Regulations of the Gendarmerie Corps, Decree of the President of the Governorate of 18 September 2008, articles 18 and 30).

47. Members of the Gendarmerie Corps also receive training on the treatment of prisoners from the Italian Penitentiary Police (IPP) per the Regulations of the Italian Penitentiary Police, Decree of the President of the Republic, 15 February 1999, N. 82 (See also fourth periodic report of Italy (CAT/C/67/Add.3), 11 May 2005). These courses, based on the rules of the Italian penitentiary system, are taught by IPP personnel, as well as educators, psychologists, and social workers. Members of the Gendarmerie Corps may also attend other courses taught by the same on a voluntary basis.

48. Members of the Gendarmerie Corps also attend courses on international human rights and international principles of criminal justice by a team of human rights educators. The curriculum also includes Church teachings, which inculcates a profound understanding of the inherent dignity of each human being, as being made in the image and likeness of God, with rights/duties that flow from this dignity which must be respected from conception until natural death.

49. Presently under consideration is the development of courses for medical personnel working in VCS which would take note of the “Istanbul Protocol Model Curriculum on the Effective Medical Documentation of Torture and ill Treatment,” developed by Physicians for Human Rights and available on-line.

Article 11- Systematic review of rules and methods

50. In 2012, the Department of Security Services and Civil Protection produced new draft regulations, which are currently under review. They contain norms that cover a full range of issues dealing with the day-to-day activities and treatment of prisoners or

detainees. These draft regulations, once adopted, would be in force for a two year period, and then subject to review and evaluation (Regolamento Interno recante Norme sull'Ordinamento Penitenziario e sulle Misure Privative e Limitative delle Libertà/ Internal Regulations containing Norms on the Detention System and Measures regarding Loss and Limitations of liberty).

Article 12- Prompt and impartial investigation

51. There has been one allegation of ill-treatment by a detained accused person in VCS, which is currently under investigation. In 2012, Mr. Paolo Gabriele was arrested by the Office of the Instructing Judge on a charge of aggravated theft of original and confidential documents and the publication of the same. He was arrested and detained according to the rules of the penal system explained supra paragraph 37 of this report. He was detained in a cell at the headquarters of the Department of Security Services and Civil Protection of the Governorate in VCS from 24 May to August 13, 2012, and after that, under house arrest.

52. During his pretrial detention he received the following provisions: appropriate medical assistance; spiritual assistance; appropriate means to meet with his lawyer (e.g. private room to protect lawyer-client privilege); family visits with his wife and two children and participation at the celebration of Sunday Mass; visits with his father together with his wife (see Penal Procedure of the Tribunal of the Vatican City State v. Mr. Paolo Gabriele: Conclusions of the Promoter of Justice and Decision to Commit for Trial, Office of the Promoter of Justice, Prot. N. 8/12 Reg. Gen. Pen; see also the Statement issued by the Office of the Gendarmerie Corps).

53. He was prosecuted according to the rules of the penal system explained supra paragraph 37 of the report and ultimately convicted. On October 6, he was sentenced to imprisonment for a period of three years, although in view of mitigating factors the Tribunal reduced the sentence to 18 months. He remained under house arrest until 25 October 2012, when he was imprisoned. (Sentenza del Tribunale dello Stato della Città del Vaticano nel procedimento penale a carico del Signor Gabriele Paolo, 23.10.12)

54. During the trial, in response to a question put by his lawyer he stated “it is true that in the first cell where I was detained, there was not enough room to stretch out my arms. The light was left on continuously for twenty-four hours and this affected my vision.” (“È vero che nella prima cella in cui sono stato chiuso non avevo spazio per poter allargare le braccia. La luce era accesa di continuo nelle ventiquattro ore e questo mi ha provocato abbassamento della vista.” Procedimento penale Prot. N.8/12 Reg. Gen. Pen., Processo verbale di Gabriele Paolo, p. 9)

55. The same day the Promoter of Justice opened an investigation into the allegations of Mr. Gabriele with a view to ascertaining whether a crime had been committed. The investigation is taking note of the “Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, otherwise known as the “Istanbul Protocol”.

Article 13- Complaints and compensation

56. Victims make complaints according to articles 149-161 CPP and witnesses, including victims, give evidence according to articles 245-256 CPP. Crimes may give rise to an action for damages and restitution (arts. 7-13 CPP). These include offences against the person (arts. 364 ff. CP) as well as crimes pertaining to one’s deprivation of liberty (arts. 145 ff CPP). It is a crime to threaten, or use violence against any person, including those who lodge a complaint or provide testimony (arts. 364-375, CP). For further information see supra paragraphs 51 to 55 of this report.

Article 14- Rehabilitation and reintegration

57. There are no rehabilitation and reintegration programmes per se for victims of torture or their families. However, a current draft of amendments to the penal law of VCS is taking this issue under consideration to ensure that any victim of torture and his or her family receive rehabilitation and reintegration including the spiritual, psychological and medical assistance they need. It should be noted that compensation awards will also take some of these issues into consideration, namely those that can be reduced to a monetary value.

Article 15- Statements and confessions

58. The law prohibits the use of an accused person's statement unless it has been made in the presence of his defence lawyer, pursuant to articles 73 and 389, CPP. In such circumstances, article 73 renders the evidence inadmissible. The accused person's statement, when made in the presence of a defence lawyer, may constitute a full or partial confession; its value is determined by the Judge pursuant to articles 196 and ff., CPP. No confession per se, by itself, is a sufficient basis to render a decision of criminal liability. The Judge always has the obligation and the discretion to weigh the evidence.

Article 16- Prohibition of acts of cruel, inhuman or degrading treatment or punishment

59. The laws of VCS do not criminalize "other cruel, inhuman or degrading treatment or punishment", however, such acts are prohibited by precepts of divine law and natural law, as noted in infra chapter IV. As previously mentioned, the majority of crimes prosecuted in VCS are summary conviction offences that are generally dealt with by way of fine or by forbidding future entrance into VCS. Consequently, there have been no problems of overcrowding, inter-prisoner violence or disciplinary measures imposed upon inmates.

60. The two detention cells are located at the Department of Security Services and Civil Protection of the Governorate and kept in decent condition. The new "Internal Regulations containing Norms on the Detention System and Measures regarding Loss and Limitations of liberty," clarify existing norms for the humane treatment of prisoners. In addition, a third cell will be created in anticipation of a case where a woman, man and child might be detained at the same time. Courses taken by members of the Gendarmerie Corps also assist in the prevention of such acts (see supra paragraphs 47-48 of the report)

61. As previously noted, supra paragraph 52 of this report, during the recent pretrial detention the accused person received the following provisions: appropriate medical assistance; spiritual assistance; appropriate means to meet with his lawyer (e.g. private room to protect lawyer-client privilege); family visits and participation at the celebration of Sunday Mass.

IV. Affirmation of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment in the teachings and activities of the Holy See**A. Introduction**

62. When the Holy See ratifies or accedes to an international agreement on behalf of VCS following international law and practice, it intends also to manifest its moral authority and thereby encourage States to ratify the treaty and to accomplish their respective obligations. Indeed, within the international community the Holy See promotes juridical,

social and moral principles founded upon right reason which are addressed to the whole of humanity and not to Catholic believers alone. As the development of human rights demonstrates, international law cannot dispense with common moral values of an objective nature. The Holy See, for its part, is making every effort to advance moral principles and conditions for ensuring peace, justice and social progress in a context of ever more effective respect for and promotion of the human person and of his or her rights.

B. Treaty issues

Prohibition against torture and other cruel, inhuman or degrading treatment or punishment (arts. 1, 4 and 16)

General principles

63. The Holy See teaches the sacredness of human life because every human person, male and female, is made in the image and likeness of God by his creative act and remains forever in a special relationship with him (see HG, n. 45; IDV, intro.para.5; EV, 34; CCC, 2258). Rights and duties flow from one's inherent dignity as a human person, from the moment of conception until natural death, and are prior to any convention, political agreement or concession by society or the State (see Pope John Paul II, Message delivered at the Meeting on the Rights of the Child, 1992; see IDV, III). Accordingly, justice "demands the unconditional respect that is morally due to the human person in his bodily and spiritual totality," even if the contrary is commanded by public authority (IDV, I).

(a) The Holy See notes that "[i]n times past, cruel practices were commonly used by legitimate governments to maintain law and order, often without protest from the Pastors of the Church, who themselves adopted in their own tribunals the prescriptions of Roman law concerning torture. Regrettable as these facts are, the Church always taught the duty of clemency and mercy. She forbade clerics to shed blood. In recent times it has become evident that these cruel practices were neither necessary for public order, nor in conformity with the legitimate rights of the human person. On the contrary, these practices led to ones even more degrading. It is necessary to work for their abolition. We must pray for the victims and their tormentors" (CCC, no. 2298).

(b) In preparation for the Jubilee Year of 2000, Pope John Paul II declared that the Catholic Church "could not cross the threshold of the new millennium" without a spirit of repentance with respect to the "acquiescence given, especially in certain centuries, to intolerance and even the use of violence." He noted that "mitigating factors could not exonerate the Church from the obligation to express her regret." He viewed this regret as an "act of honesty and courage" which would strengthen the Church to face future temptations and challenges. The "painful moments of the past," for Pope John Paul II, served as an important lesson for the future and adherence to the principle that: "The truth cannot impose itself except by virtue of its own truth, as it wins over the mind with both gentleness and power" (Apostolic Letter, Tertio Millennio Adveniente, 10 Nov.1994, nos. 32, 35).

Prohibition against torture

64. Consequently, the Holy See condemns the use of torture as a grave violation of the Commandment "You shall not kill" and works towards its abolition. Indeed, "Torture which uses physical or moral violence to extract confessions, punish the guilty, frighten opponents, or satisfy hatred is contrary to respect for the person and for human dignity" (CCC, 2297; see also GS, 27).

Prohibition against CIDPT

65. The Holy See condemns other acts of cruel, inhuman or degrading treatment or punishment, which may not amount to torture but are equally contrary to the inherent

dignity of the human person and his or her integrity and identity. They include the death penalty, in cases where bloodless means are available to protect public order and the safety of persons; subhuman living conditions in prisons (e.g. overcrowding etc.); arbitrary imprisonment, detention or deportation (see GS, 27; EV 55, 58-59, 65-66; Pope John Paul II, Message for the Jubilee in Prisons, 2000, 5; CCC, 2266, 2270, 2275).

Prevention (art 2)

66. The Holy See works to prevent torture by seeking to address its root causes, namely lack of formation and education, as well as contributing factors such as underdevelopment, poverty, racism, corruption, proliferation of weapons, armed conflict and so forth. The Holy See's interventions on the aforementioned issues are too numerous to cite herein.

67. In specific regard to education, the Holy See promotes formation of human persons based on an authentic understanding of inherent dignity. Such formation ought to begin in the family, where children first learn the values of authentic love and respect for all persons, first from their parents, then from their siblings. The family and its members, in turn, by living upright lives in society transmit values to others (e.g. families, intermediate groups, political communities, and State institutions). Such education is most likely to have a lasting effect and influence when authentic values are built up on a daily basis in the family and reinforced by cultural institutions, religious communities and the State, including the State's laws and legal institutions. In this way, such values can take deep root within the heart of every human person.

68. The Holy See does its part to assist in such formation. For example, it teaches that torture and other CIDPT are contrary to the inherent dignity of each and every person, and his or her rights to life and to bodily integrity. The following examples are noteworthy.

(a) Acts of Torture are Radically Contrary to the Dignity of Man. In 2004, on the heels of the United Nations International Day in Support of Victims of Torture, Pope John Paul II called for a "common commitment of institutions and citizens to completely ban" the "intolerable violation of human rights," and declared that acts of torture are "radically contrary to the dignity of man" (Pope John Paul II, Angelus Message, 27 June 2004. The Angelus is a prayer that the Pope recites every Sunday. Along with a brief discourse, it is televised worldwide);

(b) Respect for Human Rights Promotes Peace. In 1963, Pope John XXIII argued: "Man has the right to live. He has the right to bodily integrity and to the means necessary for the proper development of life (no. 11) 'a regime which governs solely by means of threats and intimidation or promise of reward, provides men with no effective incentive to work for the common good' (no. 48) [which] is best safeguarded when personal rights and duties are guaranteed (no. 60). Thus any government which refused to recognize human rights or acted in violation of them, would only fail in its duty; its decrees would be wholly lacking in binding force" (no. 61) (Pope John XXIII, Encyclical *Pacem in Terris*, 11 April 1963);

(c) Every Injustice Endangers Peace. In 1986, Pope John Paul II argued that "peace is the fruit of justice" and that "every injustice endangers peace." Injustice is a cause or a potential factor that incites conflict. He highlighted grave violations against the dignity of the human person and his or her fundamental rights: "forced exodus, and massacres of populations, torture, detention and summary execution without guarantees of administrative justice, arbitrary taxes fuelled by racism or apartheid, abuse of power and religious persecution." He argued that "violation of the fundamental rights can never become a means for political ends. A regime that suppresses such rights can never claim to work for peace." The Church has continually raised its voice for the victims of torture. (Pope John Paul II, Annual Address to the Diplomatic Corps Accredited to the Holy See, 1986).

69. The Holy See teaches that universal condemnation of torture is a way to peace. Since 1 January 1968, the first day of the year has been dedicated to the celebration of the World Day of Peace and on each occasion the Pope has directed a Message to the entire world. The annual Messages are interrelated in that each highlights a different aspect of the discussion about peace (e.g. justice, human rights, international law, the role of women and so forth). These Messages have frequently accented the crime of torture and other CIDPT. The following Messages are especially noteworthy:

(a) Universal Rejection of Torture is a Positive Contribution to Peace. In 1970, Pope Paul VI called for education in peace, which must first take root in the heart of each person: “We must first know, recognize, will and love peace; then we shall express it, and impress it on the renewed morals of humanity; on its philosophy, its sociology, its politics.” A positive contribution to peace has been the “universal disapproval of terrorism, of torture of prisoners, of retaliatory repression of innocent people, of concentration camps for civilian detainees, of killing of hostages, and so on. The world's conscience no longer tolerates such crimes, the fierce inhumanity of which turns back in dishonour on those who perform them” (Pope Paul VI, World Day of Peace Message, 1970);

(b) Peace and Respect for Life and Bodily Integrity are linked to the social order, whereas “Police Torture” is connected to the disorder of “ignoble repression.” In 1977, Pope Paul VI devoted his Message to explaining how “peace and life are closely bound together at the basis of order and civilization.” During his Message he lamented how some offences against life have become seemingly “normal behavior” including “police torture” [as] an effective means of public power no longer directed towards restoring order but towards imposing ignoble repression.” He contended that agreements embodying “international commitment for the protection of human rights, for the defence of children and for the safeguarding of fundamental human freedoms” were evidence of civil progress. He argued that such instruments were “the epic of peace, in so far as they are the shield of life” (Pope Paul VI, World Day of Peace Message, 1977);

(c) To Invoke Peace is by Necessary Implication to Promote Respect for Life and Bodily Integrity. In 2001, Pope John Paul II called for a dialogue between cultures and traditions for significant common elements and shared values such as solidarity, peace, life and education. He argued that “it is not possible to invoke peace and despise life.” After noting some splendid examples of respect for life, he went on to note the “tragic spiral of death which included murder, suicide, abortion, euthanasia, as well as practices of mutilation, physical and psychological torture, forms of unjust coercion, arbitrary imprisonment, unnecessary recourse to the death penalty, deportations, slavery, prostitution, trafficking in women and children cloning and use of human embryos for research.” To build a civilization he called for authentic love and peace based on respect for and protection from atrocities of every human person, including the weakest and most vulnerable members of society (Pope John Paul II, World Day of Peace Message, 2001);

(d) Truth Serves Peace: Call Acts of Violence (Torture) by their Proper Names. In 1980, Pope John Paul II argued that “truth serves the cause of peace” and that “[v]iolence flourishes in lies, and needs lies to justify itself by systematically and radically discrediting opponents, their actions, and the social and ideological structures within which they act and think.” He argued for restoring peace by, first of all, calling acts of violence by their proper names, including acts of torture (Pope John Paul II, World Day of Peace Message, 1980, nos. 17, 4);

(e) The Truth of Peace Means that Not Everything Becomes Permissible in Times of War. In 2006, Pope Benedict XVI expressed support for humanitarian law, which prohibits torture, and described it as “the finest and most effective expression of the intrinsic demands of the truth of peace. Precisely for this reason, respect for that law must be considered binding on all persons. Its value must be appreciated and its correct

application ensured.” He noted the “demanding front [on which] Catholic Church’s military ordinariates carry out their pastoral activity” and encouraged “both military Ordinaries and military chaplains to be in every situation and context, faithful heralds of the truth in peace” (Pope Benedict XVI, World Day of Peace Message, 2006, no. 8).

70. The Holy See exhorts all, especially the lay faithful, to not remain “indifferent or be strangers and inactive in the face of all that denies and compromises peace, namely, violence and war, torture and terrorism, concentration camps, militarization of public life, the arms race, and the nuclear threat” (CL, 42). The documents and activities of the Holy See are too numerous to be mentioned herein. The following exhortations are especially noteworthy.

(a) The Church cannot fail to stand against Torture and CIDPT. On 14 January 1978, Pope Paul VI, after referring to the torture and mistreatment practiced in various countries against individuals, concluded his address as follows: "How could the Church fail to take up a stern stand with regard to torture and to similar acts of violence inflicted on the human person?" (Pope Paul VI, Annual Address to the Diplomatic Corps Accredited to the Holy See, 1978);

(b) The Church and Believers cannot Remain Insensitive and Passive. In 1978, Pope Paul VI stated: “The Church and believers cannot remain insensitive and passive...before the multiplications of denunciations of torture and ill-treatment in various countries on persons arrested, interrogated or else put in a state of surveillance or confinement. While constitutions and legislation make room for the principle of the right to defence at all stages of justice, while proposals are put forward to humanize places of detention, it is obvious, nevertheless, that techniques of torture are being perfected to weaken the resistance of prisoners, and that people sometimes do not hesitate to inflict on them irreversible injuries, debasing for the body and for the spirit. How can one fail to be troubled when one knows that many tormented families send supplications in vain in favour of their dear ones, and that even requests for information pile up without receiving an answer? In the same way, we cannot pass over in silence the practice, denounced on so many sides, which consists in putting on the same footing those guilty, or presumed such, of political opposition and persons who need psychiatric treatment, thus adding to their pain”;

(c) Catholic Doctors have Grave Responsibilities to Avoid Torture and CIDPT. In 1978, Pope Paul VI reminded Catholic doctors of their “grave responsibility...principally with regard to the physical and mental health of those who put themselves in your care.” He referred to doctors generally as the “protectors, defenders and friends of humanity” but then highlighted the attacks on life and the dignity of life in society. In this regard, he underlined the “all too frequent invocation of ‘the quality of life’ as a justification for ideological principles, norms, programmes, and then concrete initiatives that assail the dignity of life itself.” (Pope Paul VI, Address to the International Federation of Catholic Medical Associations 1978);

(d) Religious Leaders must Work together in the Struggle for Peace. In 2004, Pope John Paul II and Archbishop Christodoulos of Athens and all Greece expressed their deep concern over “wars, massacres, torture and [Christian] martyrdom” arguing that these events “constitute a terrible daily reality for millions of our brothers and sisters.” In response, they committed themselves “to struggle for the prevailing of peace throughout the whole world, for the respect for life and human dignity, and for solidarity towards all who are in need (Common Declaration of Pope John Paul II, Bishop of Rome, and His Beatitude Christodoulos, Archbishop of Athens and all Greece, 2004, no. 4).

Exceptions or justifications (art. 2)

71. The Holy See does not advocate exceptions to the prohibition of torture or otherwise seek to justify acts of torture. In 2007, for example, Pope Benedict XVI met with 167 members of the International Commission for Catholic Prison Pastoral Care (ICPPC) which represents prison chaplains from 62 countries, and stated: “I reiterate that the prohibition against torture cannot be contravened under any circumstance” (Address of Pope Benedict XVI on the occasion of the Twelfth World Congress of the ICPPC 6 Sept.2007). In brief, the Holy See teaches that “international juridical instruments concerning human rights correctly indicate a prohibition against torture as a principle which cannot be contravened under any circumstances” (CSDC, 404).

72. In 1970, Pope Paul VI stated: “torture done by police, using cruel and inhuman means, for extracting confessions from the mouths of prisoners is to be openly condemned. Such confessions are not admissible....on the basis of justice and defending public order. They are intolerable, including those acts practiced by subordinates, without a mandate, or permission of a superior Authority, upon whom the responsibility of similar acts of abuse and dishonour can fall. These acts are to be rejected and abolished. They offend not only physical integrity, but also the dignity of the human person. Degrading the sense and majesty of justice, they provoke contagious and obdurate feelings of hatred and vendetta. Where it has been possible, we have condemned and tried to dissuade recourse to such barbaric means. The authority of the Church and the public opinion of Catholics have raised their voices against such iniquitous abuse of power” (Pope Paul VI, Wednesday Audience, 21 October 1970).

Expulsion, return or extradition (art. 3)

73. The Holy See has spoken favourably about “practical measures that must be upheld and implemented as means of due protection” for all people fleeing generalized violence. They must be “respectful of their human rights and of the principle of non-refoulement, registration for an orderly assistance, provision of appropriate legal documentation.” Obviously, this becomes all the more urgent when persons are fleeing from torture (Intervention of the Holy See at the International Conference of the United Nations High Commission for Refugees, 17 April 2007).

Administration of justice and mutual judicial assistance (arts. 5-7, 9, 12 and 15)

74. The Holy See urges those who hold offices in charge of establishing criminal responsibility, which is always personal in character, to be meticulous in their search for truth and to see that it is conducted in accordance with full respect for the dignity and rights of the human person; this means guaranteeing the rights of the guilty as well as those of the innocent (see CSDC, 404).

75. In carrying out investigations, regulations against the use of torture, even in the case of serious crimes, must be strictly observed, and every recourse to torture rejected (see CSDC, 404).

76. The Holy See promotes respect for the principle of the presumption of innocence as well as for the person’s right to confidentiality, to legal representation, to be tried within a reasonable amount of time, to be detained for cause and subject to judicial review, and to have access to complaint mechanisms, protections from intimidation and processes for compensation in cases where errors have been committed by the administrators of justice (see CSDC, 404).

77. The Holy See has played an active role in the “growing public opposition to the death penalty” (CSDC, 405). It promotes the effective suppression of crime by rendering criminals harmless without definitively denying them the chance to reform (see CSDC,

405). The Holy See maintains that the State should never come to “the extreme of executing the offender except in cases of absolute necessity, when it would not be possible otherwise to defend society” (EV, 56). It likewise points out that “today however, as a result of steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent” (EV, 56). In brief, bloodless methods of deterrence and punishment are preferred since they “better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person” (CSDC, 405).

Training and systematic review of rules and methods (arts.10 and 11)

78. The Holy See supports the principle that the State should be continually training its law enforcement personnel and judicial officers, as well as reviewing its systems and programmes, especially “from the point of view of the objective and inviolable rights of man” (RH, 17).

79. In 1979, Pope John Paul II noted that “human rights are being violated in various ways...we see before us concentration camps, violence, torture, terrorism, and discrimination in many forms, this must then be the consequence of the other premises, undermining and often almost annihilating the effectiveness of the humanistic premises of these modern programmes and systems. This necessarily imposes the duty to submit these programmes to continual revision from the point of view of the objective and inviolable rights of man” (RH, 17).

80. In 2000, Pope John Paul II called for a review of penal laws and institutions whereby “regulations contrary to the dignity and fundamental rights of the human person should be definitely abolished from national legislation, as should laws which deny prisoners religious freedom [and] give insufficient attention to those who have serious or terminal illnesses.” He noted the “wretched state” of some detention centres where prisoners are subjected to violence and harassment because of “ethnic, social, economic, sexual, political and religious discrimination.” He urged governments to “make prison life more human” by enabling prisoners to engage in work activities, training and psychological assistance. Lastly, he asked for a gesture of clemency for all prisoners (Pope John Paul II, Message for the Day of Jubilee for Prisoners, 9 July 2000, 6, 7; see also the Homily of Pope John Paul II at Mass celebrated in the Regina Caeli Prison in Rome, 9 July 2000).

Victims and rehabilitation (arts. 13 and 14)

81. The Holy See has expressed deep compassion for the victims of torture and in particular for tortured women (see World Congress on Pastoral Ministry for Human Rights, Rome, 4 July 1998; Message to the Secretary-General of the United Nations, 1 March 1993).

82. In 1980, Pope John Paul II argued that calling acts of violence by their proper names, including acts of torture, gives one all the more reason “not to despair of the victims of injustice.” In this specific regard, he promoted continued efforts to confirm victims in the awareness of their dignity and inalienable rights in order to strengthen them in their resolve to use non-violent efforts to transform the forces of oppression (Pope John Paul II, World Day of Peace Message, 1980).

83. The Holy See recognizes that judicial and penal institutions play a fundamental role in protecting citizens and safeguarding the common good (see CSDC 405). The same institutions, however, ought to aid in rebuilding “social relationships disrupted by the criminal act committed” (see CSDC, 403).

84. In 2007, Pope Benedict VI noted that by their very nature, such institutions must “contribute to the rehabilitation of offenders, facilitating their transition from despair to

hope and from unreliability to dependability. When conditions within jails and prisons are not conducive to the process of regaining a sense of a worth and accepting its related duties, these institutions fail to achieve one of their essential ends. Public authorities must be ever vigilant in this task, eschewing any means of punishment or correction that either undermine or debase the human dignity of prisoners” (Address of Pope Benedict XVI on the Occasion of the Twelfth World Congress of the International Commission of Catholic Prison Pastoral Care, 6 September 2007).

85. In 2000, Pope John Paul II stated that “not to promote the interests of prisoners would be to make imprisonment a mere act of vengeance on part of society, provoking only hatred in the prisoners themselves” (Pope John Paul II, Message for the Day of Jubilee for Prisoners, 9 July 2000, 6, 7; see also the Homily of Pope John Paul II at Mass celebrated in the Regina Caeli Prison in Rome, 9 July 2000).

86. Similarly, in 2008, Pope Benedict XVI declared: “Every prisoner, regardless of the reason why he ended up in prison, senses how burdensome this particular human condition is, especially when it is brutalized by recourse to torture. Then particularly absurd is the condition of those...who are tortured to death for no other reason than their own ideals and political and religious convictions.[A]n immense number of people unjustly imprisoned in all ages and on all latitudes. In fact, we live in a time of necessary commitment to pass on important values and to teach the new generations the path of reconciliation and peace. We find this path by turning to God” (Pope Benedict XVI, Wednesday Audience, 12 March 2008).
