

The imperative to incorporate the Convention Against Torture (CAT) into Lesotho's national legislation

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Abstract

The Kingdom of Lesotho is a state party to the UNCAT. It is responsible for domesticating the said treaty. In Lesotho, being a dualist state, international law is not directly applicable. There should be a statute that seeks to domesticate the treaty. The study draws lessons from other CAT jurisprudence to derive a formula that can assist the country in domesticating the UNCAT. After a detailed analysis thereof, the paper makes two propositions. Firstly, Lesotho should promulgate torture-specific legislation. Secondly, the country may choose to amend the existing laws and policies to align them with international human rights principles against torture. The paper also analyses a plethora of case law in which courts addressed critical questions regarding torture. The exercise is aimed at advancing the argument that, despite the absence of clear anti-torture-specific laws, Lesotho courts have developed the formula through the doctrine of precedent, which they apply when awarding damages to persons who have approached the courts claiming to have been tortured. Lesotho courts have referred to international law in interpreting torture and have, on several occasions, frowned upon the perpetrators of the torturous activities, including state officials. The author makes several recommendations to emphasise the point that Lesotho should domesticate the UNCAT.

Keywords: Definition of Torture, Non-domestication, Court challenges, Court intervention, Recommendations

Introduction

Despite Lesotho having ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT, 1987), it has not yet incorporated it into domestic law. It has been 25 years since the ratification, but reports of torture and related practices keep occurring at concerning rates (The Kingdom of Lesotho combined its second to eighth periodic report under the African Charter on Human and Peoples' Rights and its initial report under the Protocol to the African Charter on the Rights of Women in Africa, 2018; *Jobo & Others v Commander LDF & Others*, 2018; *Ramorantsi Ntaote v Commander LDF & Others*, 2011; SADC Report, 2015). International bodies have, on several occasions, reminded Lesotho of its duties, being to enact the law that will address torture in the country (US Department of State Report, 2023;

Lesotho Council of Non-Governmental Organisations (LCN) Joint UPR submission Report 2009; Amnesty International, Lesotho, 2022). As a dualist country, Lesotho should pass legislation to domesticate the treaty, including incorporating a clear definition of torture in terms of the UNCAT. Currently, without such legislation, torture is not defined by law in Lesotho. The paper contributes to the existing literature by adding to the call made to states to domesticate treaties after ratification, to give effect to international law. Further, it adds to the invitation made to Lesotho to domesticate the Convention Against Torture, as it ratified it 25 years ago. It examines the challenges Lesotho faces due to the lack of a statute defining torture and the overall absence of domestic legislation implementing the UNCAT. It references CAT jurisprudence to guide the legislature on the key elements that constitute torture. The paper ex-

plores ways to achieve domestication, either through amending existing laws or enacting torture-specific legislation. Additionally, the paper analyses how Lesotho's courts interpret and apply international principles against torture to protect human rights. Notably, this is evident in numerous cases handled by Lesotho courts, where plaintiffs have claimed torture. Unfortunately, because of the lack of torture-specific legislation, people who seek damages through delictual claims lose access to appropriate remedies. Based on this analysis, the paper recommends that the government of Lesotho domesticate the UNCAT, not only to fulfil its international human rights obligations but also to strengthen the legal framework safeguarding citizens against torture at the domestic level.

This paper is divided into five parts after the introduction. The first one discusses the applicable international law governing torture in the legal system of Lesotho. This includes the obligation to domesticate UNCAT. This part also analyses the definition of torture in terms of Article 1 of the UNCAT. This is a starting point when constructing the anti-torture statute for states. The second part examines the national laws of Lesotho that relate to torture since there is no statute specifically relating to it. The third part explores how courts experience challenges in respect of cases brought on allegations of torture in the absence of a statute specific to torture. This is achieved by interrogating Lesotho's case law to understand the attitude of the courts and the sentences they give under different circumstances of torture. In this part, the paper analyses cases where victims were tortured in police custody, where the victims were tortured to extract admissions and/or confessions for judicial purposes to secure convictions. The fourth part concludes by reiterating the purpose of this paper, while the fifth part makes recommendations on how Lesotho can domesticate the UNCAT.

Lesotho's international legal framework

Lesotho ratified the UNCAT on 12 November 2001, but to date has not domesticated the said treaty (UPR Second Cycle report, 2015). Du Plessis and Nienaber indicate that when becoming a party to an international or regional human rights treaty, state parties agree to be bound by the provisions of the treaty (Du Plessis G & Nienaber I, 2014). Lesotho has the obligation to domesticate all the international treaties that it has ratified (Jackson JH, 1992). Lesotho is a dualist state; therefore, international treaties are not self-executing (Shale I, 2019; Shaw MN, 1997; Van Niekerk GJ, 2012). An Act of Parliament must be enacted to domesticate international law (Director of Public Prosecutions v Mohollo Tsoenyane & Others, 1999; Basotho National Party & Another v Government of Lesotho and Others).

Since Lesotho does not have a specific definition of torture, this part identifies the pillars which Lesotho can refer to in promulgating its national statute. Nowark et al. (2019) indicate that some acts which can be categorised as torture are punishable under various laws in the state; the absence of a single definition of the crime of torture as a separate criminal offence may cause a legal *vacuum*, which leaves other torturous acts uncovered and subsequently unpunished. This emphasises the need for states such as Lesotho to define torture in their laws. The Committee Against Torture (CAT) has issued a series of recommendations to guide countries on how to incorporate the definition of torture in their legislation. Some states already had torture-specific statutes that were either unclear or silent on their definition of torture. CAT assisted them in elevating their statutes to meet international standards. This part explores other jurisdictions to guide Lesotho on what route to follow, as well as the lessons to learn in the exercise of promulgating torture-specific legislation or amending the existing criminal laws to include anti-torture provisions.

The starting point in defining torture should be the UNCAT itself. Article 1 contains the following definition of torture:

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions.
2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application. (UNCAT, 1987).

In the case of *Ireland v. UK* (1976), it was said that 'Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment. Torture is inhuman treatment, which has a purpose, such as the obtaining of information or confessions, or the infliction of punishment, and it is generally an aggravated form of inhuman treatment. This may be compared with the definition of torture contained in article 7(2)(e) of the 1998 Rome Statute of the International

Criminal Court (ICC) adopted by the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (United Nations, 1998; Bazzano and Massera v. Uruguay, 1977; Human Rights Committee Report, 1979).

The three pillars in defining torture are: First, the relative intensity of pain or suffering inflicted; it must not only be severe, but it must also be an aggravated form of already prohibited (albeit undefined) cruel, inhuman, or degrading treatment or punishment (Yearbook of the European Convention on Human Rights – The Greek Case, 1969). Second, the purposive element: obtaining confession statements and admissions (Committee against Torture, 2013). Third, the status of the perpetrator: a public official must inflict or instigate the infliction of the pain or suffering. This means, therefore, that for torture to occur, the perpetrator must inflict ‘severe physical or mental pain or suffering’ (Rodley NS, 2002). At the same time, for other inhumane acts, it must be ‘great suffering, or serious injury to body or mental or physical health’ (UNCAT 1987).

UNCAT primarily imposes affirmative obligations on state parties, rather than negative obligations. It requires governments to ensure that persons who commit acts of torture are subjected to criminal penalties (UNCAT, 1987). Several articles are directed primarily to the Executive Branch: They require education of law enforcement officers, systematic review of rules for detention of prisoners, and prompt investigation of any complaints ‘wherever there is reasonable ground to believe that an act of torture has been committed’ (UNCAT, 1987).

The UNCAT establishes the CAT to monitor the implementation of the Convention (UNCAT, 1987). UNCAT imposes various obligations on State parties. Article 2 mandates each State party to take effective legislative, administrative, judicial, and other measures to prevent acts of torture in any territory under its jurisdiction. CAT, in its concluding observations to Canada, observed that State parties should incorporate all the provisions of the UNCAT into their domestic legislation “to allow persons to invoke it directly in courts, give prominence to the Convention and raise awareness of its provisions among members of the judiciary and the public at large” (Concluding observations report on Canada, 2019). These recommendations speak directly to Lesotho.

Article 2: States parties shall take effective legislative, administrative, judicial, and other measures to prevent torture in any territory under their jurisdiction. Though the Committee has considered in a general sense which measures must be taken by States parties to prevent torture, it has equally emphasised that no exhaustive list exists and obligations to take preventive measures go beyond the items enumerated specifically in

the Convention or in its interpretation (UN Subcommittee on Prevention of Torture). The duty of Lesotho to define torture through a statute seems to be the starting point because it would be unlikely that it can deal with other measures when there is no legislature defining what torture is, in the first place. Therefore, Lesotho must have the duty to promulgate the law that defines torture.

Comparative lessons from CAT jurisprudence and selected jurisdictions

Since the publication of General Comment No. 2, CAT has called on state parties whose definition of torture in domestic legislation does not comply with UNCAT Article 1 to amend their relevant legislation (Special Rapporteur on Torture Report to Tunisia, 2012; Special Rapporteur on Torture Report to Ghana, 2014). In this regard, the Committee drew attention to its General Comment No. 2, which states that serious discrepancies between the Convention’s definition and that incorporated into domestic law create actual or potential loopholes for impunity.

In the same vein, the CAT recommended that Cameroon should ensure that its domestic law on torture ‘fully incorporates the definition of torture under articles 1 and 4 of the Convention’, and noted with concern that domestic legislation does not provide for the imposition of sentences that take into account the seriousness of the offence (arts. 1 and 4) (Concluding observations of the Committee against Torture on the fourth periodic report of Cameroon, 2010). In response to these deficiencies, the Committee advised that the Cameroonian government should provide the Committee with the necessary information for it to assess whether the State party has incorporated into its Criminal Code a definition of torture that complies with articles 1 and 4 of the Convention. The Committee emphasised that the definition of torture should set out clearly the purpose of the offence, provide for aggravating circumstances, include the attempt to commit torture, as well as acts intended to intimidate or coerce the victim or a third person. The Act should also refer to discrimination of any kind as a motive or reason for inflicting torture. The definition should also criminalise torture inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (*Sube Singh v State of Haryana*, 2006). Cameroon also had to ensure that the provisions criminalising acts of torture and making them punishable by criminal penalties are proportional to the seriousness of the acts committed.

Further, the CAT recommended that Bulgaria make a comprehensive definition of torture. The definition should incorporate all the elements of Article 1 of the Convention, not

included in its Penal Code. Also, torture is not criminalised as an autonomous offence in law, as required under the Convention (Concluding observations of the Committee against Torture on Bulgaria, 2011). The CAT urged the State Party to take effective legislative measures to include torture as a separate and specific crime in its legislation. The State was also mandated to ensure that penalties for torture are commensurate with the gravity of this crime. Also, the State should ensure that the absolute prohibition against torture is non-derogable and that acts amounting to torture are not subjected to any statute of limitations (Concluding observations of the Committee against Torture on Bulgaria, 2011).

CAT made similar recommendations to Guinea (Concluding observations of the Committee against Torture on Guinea, 2014). This example emphasises the important requirement in defining torture under the statutes. The definition of torture must be consistent with Articles 1 to 4 of the UNCAT. That definition must be supported by a penalty that takes into account the gravity of the offence. This is a *sine qua non* in constructing the definition of torture, for which any definition short thereof is internationally non-compliant. The crime is regarded as an autonomous offence when there is a statutory provision that directly addresses that offence. That defines and provides for its punishment and/or sentence. Unfortunately, this does not obtain in Lesotho; instead, the Penal Code fails to define it and does not create a corresponding offence and consequently prescribe a sentence.

The formula drawn from the above-considered state recommendations of the CAT is clear. It can be construed that Lesotho must adopt a definition of torture that fully complies with articles 1 and 4 of UNCAT in two ways. This is the starting point in drafting the anti-torture legislation as deciphered above. The analysis also demonstrates that there are two ways to domesticate the treaty. First, the country can enact torture-specific legislation. Second, amend penal laws (such as the Penal Code, 2010 or the Criminal Procedure and Evidence Act, 1981), and add the offence of torture to the existing offences in those laws. What is important is that torture should be declared as an offence and that it should encompass all the elements of torture under Article 1. The punishments set thereat should also reflect the gravity of the offence and remove any justification for torture.

The prohibition of torture has achieved the status of *jus cogens* or a peremptory norm in international law (Mujuzi D, 2015; Advisory opinion on the applicability of statutes of limitation to prosecution, conviction, and punishment in respect of an offence constituting, in substance, an act of torture, 2022). To determine whether a particular form of ill-treatment should

be qualified as torture, the court will have regard to the distinction embodied in the definition of torture in Article 1 of UNCAT (Ireland v. the United Kingdom, 1978; Selmouni v. France, 1999; Ilaşcu and Others v. Moldova and Russia, 2004). In addition to the severity of the treatment, there is a purposive element, as recognised in UNCAT, which defines torture in terms of the intentional infliction of severe pain or suffering with the aim, inter alia, of obtaining information or a confession, inflicting punishment or intimidation (Salman v Turkey [GC] 2000; Al Nashiri v Poland 2014; Petrosyan v. Azerbaijan 2021).

Lesotho's national legal framework

The legislative framework of Lesotho governing torture appears in fragmented sections of the law in the following manner;

The Constitution (1993), Section 8 states that,

- 1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.
- 2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in Lesotho immediately before coming into operation of this Constitution.

The Criminal Procedure & Evidence Act (1981), sections 228 and 229;

- (1) Any confession of the commission of any offence shall, if such confession is proved by competent evidence to have been made by any person accused of such offence (whether before or after his apprehension and whether on a judicial examination or after commitment and whether reduced into writing or not), be admissible in evidence against such person provided the confession is proved to have been freely and voluntarily made by such person in his sound and sober senses and without having been unduly influenced thereto.

229. Inadmissibility of facts discovered by an inadmissible confession,

- (1) Evidence of any fact otherwise admissible in evidence may be admitted notwithstanding—

that such fact has been discovered and come to the knowledge of the witness who gives evidence respecting it only in consequence of information given by the person under trial in any confession or evidence which by law is not admissible in evidence against him on such trial, and that

such a fact has been discovered and came to the knowledge of the witness against the will of the accused (Criminal Procedure & Evidence Act 1981).

The UNCRC stipulates that 'No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment' (Convention on the Rights of the Child 1989). Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age. The UNCRC has been domesticated through the Children's Protection and Welfare Act (Children's Protection and Welfare Act, 2011). Section 2 (1) says that 'the objects of this Act are to extend, promote and protect the rights of children as defined in the 1989 United Nations Convention on the Rights of the Child, the 1990 African Charter on the Rights and Welfare of the Child and other international instruments, protocols, standards and rules on the protection and welfare of children to which Lesotho is a signatory. This symbolises the process of ratification and domestication that must happen in the case of dualist states in respect of international law.

In respect of torture, the CPWA says that 'A child has a right to be protected from torture or other cruel, inhuman or degrading treatment or punishment, including any cultural practice which degrades or is injurious to the physical, psychological, emotional and mental well-being of the child' (Children's Protection and Welfare Act, 2011). The Education Act also restates the UNCRC that '...no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment' (Education Act, 2010). Further, there is a Code of Good Practice which indicates that 'a teacher shall treat the learners with dignity, respect and consideration of their circumstances' (Code of Good Practice Policy, 2011).

Lesotho, in its report to the African Commission, indicated that it is difficult for the country to criminalise torture in Lesotho as there is no specific anti-torture law. The state reported that, besides sections 94 and 95 of the Penal Code, which proscribe torture committed as part of war crimes or crimes against humanity, there is nowhere in Lesotho's laws that torture has been adequately proscribed. The report indicated that officials who are implicated in cases of torture are seldom prosecuted, and where they are, they are prosecuted under the Penal Code Act for offences such as assault or murder where the torture has resulted in the death of a victim (The Kingdom of Lesotho combined in its second to eighth periodic report under the African Charter on Human and Peoples' Rights and its initial report under the Protocol to the African Charter on the Rights of Women in Africa, 2018). This corroborates the

paper's argument that there is an urgent need for anti-torture legislation. More so because the state has itself demonstrated that they receive many reports of torture, some of which go undocumented.

The Lesotho Council of Non-governmental Organisations (LCN) has also noted, with serious concern, the fact that Lesotho has not enacted any legislation that implements the UNCAT. They reiterate Section 8 of the Constitution, which becomes unhelpful since there is no autonomous offence of torture in Lesotho's criminal law (Lesotho Council of Non-Governmental Organisations (LCN) Joint UPR submission Report, 2009). They also noted the difficulty that the courts face in deciding torture-related cases. LCN opines that this is a demonstration of a continuing failure of Lesotho to implement its international obligations relating to the prohibition of torture (Lesotho Council of Non-Governmental Organisations (LCN) Joint UPR submission Report, 2009). In particular, Article 4 (1) of the UN Convention against Torture, according to which: 'Every State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture' (UNCAT, 1987).

In 2020, Lesotho reported that although there is no law specific to torture, the country uses section 228 as a mechanism to bar the admissibility of torture-extracted confessions (Human Rights Committee, second periodic report submitted by Lesotho, 2020). However, the Committee expressed concern over high rates of torture since 1999. The report shows widespread allegations that torture and other cruel, inhumane, or degrading treatment remain a widespread practice among law enforcement officers, in particular by the Lesotho Defence Force (LDF) and Lesotho Mounted Police Service (LMPS). Notably, for interrogation and the extraction of forced confessions (Human Rights Committee, List of issues before the submission of the second periodic report of Lesotho, 2023). The underlying fact is that Lesotho has no law that is specific to torture, and the absence of specific legislation remains an important part of the legal gaps for the continued occurrence of torture. If this gap is addressed, Lesotho would be a step ahead towards addressing systemic and legislative challenges regarding the fight against torture.

Lesotho's courts' approach to torture-related claims

Judicial use of international law

The principle of subsidiarity also requires individuals to exhaust local remedies before approaching an international or regional

body to vindicate their human rights (Socio-Economic Rights and Accountability Project (SERAP) v Nigeria, 2010; Muzerengwa & Others v Zimbabwe, 2011; H v Sweden Communication, 2016; EE v The Russian Federation Communication, 2012; BR v Italy, 2016). It is at the national level that individuals can easily access and enforce against their own governments the rights and obligations contained in the ratified international human rights treaties (Viljoen F, 2011). At the national level, individuals must be able to enforce the rights contained in the ratified instruments. Viljoen summarises the process of aligning national legal systems with international human rights standards as 'bringing human rights home' (Viljoen F, 2011). He argues that when states ratify the international human rights instruments, they undertake to implement the rights contained therein and thereby assume the responsibility to bring the rights to the national level (Viljoen F, 2011).

The courts of Lesotho have demonstrated different approaches towards the implementation of international laws, without any consistency. Shale argues that Lesotho's dualist approach to international law is inferred from the constitutional supremacy clause in section 2 of its Constitution (Shale I, 2019; Constitution of Lesotho, 1993). However, it is illustrated that, as far as human rights protection is concerned, there has been a paradigm shift in terms of how the courts have applied provisions of international instruments. Although it is not clear whether this was deliberate or not, courts have applied provisions of international instruments directly without probing into their domestication or otherwise. Because of the lack of a clear constitutional provision on how the courts must treat such instruments, there are also cases in which the courts have totally disregarded international instruments and pronounced that these cannot overrule either Sesotho customary law or statutes if they have not been domesticated into national laws (Shale I, 2019).

Legislative reforms, such as criminalisation, measures to reduce pre-trial detention, the provision of legal aid, institutional reforms of the dysfunctional criminal justice system, and training on the nexus between inequality and torture, will often be essential. Beyond this, a careful analysis is required to tackle the underlying causes of torture. This includes the material conditions, socio-economic logic in highly unequal societies, and public discourses (McGregor L, 2013). Requiring Lesotho to develop and implement coherent and integrated policies on combating torture, corruption, and poverty eradication is an important measure in a wider, systemic approach to torture prevention.

Courts in Lesotho should have universal jurisdiction over the offence of torture, irrespective of where it is committed.

This jurisdiction should be provided for "expressly" in domestic law (Conclusions and recommendations of the Committee against Torture on Togo, 2006). In its concluding observations on Togo's initial report, CAT regretted how extraterritorial jurisdiction is dealt with in the State party's legislation, particularly where allegations of torture are concerned. The Committee was concerned by the fact that under Togolese legislation, torture does not constitute an extraditable offence, since it has not been defined in the Criminal Code (Concluding observations of the Committee against Torture on France, 2010). This becomes a lesson for Lesotho that, as it promulgates the anti-torture statute, it should make torture an extraditable offence.

The CAT has also recommended that a state party should have jurisdiction over torture committed outside its territory if the suspect is "simply present" in its territory (Concluding observations of the Committee against Torture on the fifth periodic report of Germany, 2011). In other words, the suspect does not have to be a citizen of the state party that asserts the jurisdiction. A fair amount of literature on human rights treaties assumes that ratification matters in some way: it begins a process of socialization of elites, stimulates public mobilization, provides ammunition for litigation, and, in some cases, sends a costly signal of a government's intention to refrain from human rights violations (Creamer CD & Simmons BA, 2015).

Lesotho has ratified UNCAT. Treaty ratification also initiates a communicative process that connects a polity with the international human rights regime at various points in time. This "constructive dialogue" centres around state reports on implementation submitted to the treaty monitoring body. Not only is reporting a legal obligation within all human rights conventions, but it is also the primary method to generate information and increase transparency about the implementation of and compliance with the treaty (The United Nations Human Rights Treaty System). This recommendation becomes applicable to the extent that Lesotho has never submitted its report to the CAT. The initial report has been due since 2002. This non-reporting makes it difficult for the CAT to assist, as it is doing with other countries alluded to above. CAT could assist Lesotho to either promulgate a totally fresh anti-torture-specific law or amend the existing laws to comply with the international standards. It is therefore important that the country submit its reports to the CAT.

Domestic courts in Lesotho are confronted with cases involving a conflict between domestic law and an international human rights treaty. In some cases, they will be able to settle these conflicts by interpreting domestic legislation in such a way as to bring it into conformity with the provisions of inter-

national law (the so-called 'harmonising interpretation'). The demonstration is made with a lot of cases in this paper. International treaties supplement domestic law, offering additional legal sources that may be interpreted and applied by domestic courts. Of course, courts should be careful to keep within the limits of their competencies, as they draw their legitimacy from constitutions, considering that their decisions may have far-reaching and sometimes unforeseen consequences. Such a last resort involvement of the courts is appropriate because, under domestic law, the judiciary is the ultimate guarantor of fundamental rights. The courts in Lesotho have come up with a very clear structure of how they calculate the damages for persons claiming to have been tortured. However, this does not take away the responsibility of the State to enact an anti-torture law or modify and amend its existing laws to define and set torture as an autonomous offence.

There are cases where the accused, or the plaintiff, complain about torture but fail to get the requisite compensation because the court would be guided by the formula, which was never augmented by the statute. This formula, if it were prescribed in the statute, would create certainty and establish the right to reparation, rather than it remaining an issue of judicial discretion. These judicial efforts, positive as they are, are not sustainable when there is no statute and remain only within the purview of judicial discretion. The courts understand the need to adopt international law as either aid to interpretation or a guiding tool in coming to their decisions. What is noteworthy is that the courts of Lesotho recognise international law in their day-to-day functioning. They also apply it whenever the opportunity to do so presents itself. The following part will demonstrate the cases in which the courts invoked international law without entering the debate of the monism and dualism dichotomy.

Exclusion of evidence

Article 15 of UNCAT puts amongst other obligations that State parties that have adopted the treaty must ensure that 'any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings' (UNCAT, 1987). This is one of the courts' major responsibilities to ensure that, in administering justice in the country, they do not use the evidence obtained through torture. When this is raised during the trial, the court has the responsibility to determine the question of whether the evidence in question was obtained voluntarily and not through torturous activities (Mabope and Others v R, 1986; Owori MA, 2005). Torture is currently not a specific criminal offence in Lesotho. As a result, some suspects against whom the police allegedly have used unwarranted force

to extract confessions do not argue that they have been tortured; instead, that they have been assaulted (Lori Ramashala v Policeman Makutle Makutle). Yet, in practice, as the CAT has stated, the treatment amounts to torture (Burgers JH and Danelius H, 1988). This is already the practice in Lesotho in terms of the above-cited Criminal Procedure and Evidence Act. In this aspect, Lesotho remains aligned with UNCAT.

Coerced confessions

There are two situations to be discussed: cases where accused persons were assaulted and tortured to admit guilt or obtain evidence that would later be used against them in the criminal court. The evidence would either be in the form of a confession statement or informal admissions. In the case of R v Lefu Makhabeng and Another, the accused indicated that he was tortured and forced to confess before the magistrate, who was later called to come and testify (R v Lefu Makhabeng and Another, 1999). The magistrate refused the allegation, and the evidence obtained purportedly through torture was admitted by the court. When the accused raises the issue that the confession was obtained through torture, the court conducts the trial to determine that aspect, and then, if ruling in favour of the accused, that confession will be excluded as part of the evidence. If the court is satisfied that there was no coercion in extracting the confession, then that will form part of the evidence. The general principle guiding the courts is that the confession or admission of guilt should be made freely without any undue influence, for it to form part of the evidence before the court.

Police brutality and detention

The other scenario is shown by cases where the accused persons were tortured in police custody. This not only shows the institutional problem entrenched in our police holding cells, but also shows that the state must promulgate laws that proscribe torture and also follow up on cases involving police who have tortured the accused persons in custody. In some cases, as shown below, the police officers torture the suspects whom they believe committed criminal acts, and later do not even open cases against them. The case of Mabekebeke Mashali and Others v The Learned Magistrate and Others (2010) is a criminal review application where the accused was assaulted and influenced by the police in detention to admit guilt to 'obtain a lenient sentence'. The said case was reviewed before the High Court, wherein the application was granted, and the High Court ordered that the trial start *de novo* before a different magistrate (Mabekebeke Mashali and Others v The Learned Magistrate and Others, 2010).

The case of *Zheng Shu Xhian v Chief Magistrate and Others* (2012) is an application for review of proceedings from the lower court and the setting aside of the conviction of the applicant on the grounds of alleged irregularities. The applicant averred that he was arrested by the police concerning the charge read out to him. He was detained in custody and tortured with suffocation, beatings, and other 'atrocities' during which he fainted several times; in which case he would be revived by being splashed with water all over his body (*Zheng Shu Xhian v Chief Magistrate and Others*, 2012). The accused gave evidence in court that he was instructed to confess. He further indicated that the police told him that if he did not confess, they would continue the torture. In return for the lesser. He later confessed. Upon release, he went to the doctor to seek medical forms and launched the review proceedings in the High Court. The court granted the application and set aside the conviction (*Zheng Shu Xhian v Chief Magistrate and Others*, 2012).

In the case of *Liphapang Limema & Others v Commissioner of Police and Another* (2011), the police suspected that the plaintiff was a thief. They ordered the accused persons to lie down, and after they had done so, they used the sticks and shamboks to whip them all over their backs. The court commented that 'it is trite that the Constitution places a premium on bodily integrity. In violation of bodily integrity, however minuscule it may appear, should be frowned upon.'

In the case of *Lori Ramashala v Policeman Makutle Makutle and Others* (2011), the plaintiff was taken to the inner room at the police cell, where, on arrival thereat, the first defendant had him half naked, forced him to lie on a bench in a face-down position, and had him handcuffed on the bench. The first defendant then assaulted him on his waist with a knobkerrie while another one was assaulting him with a stick under his feet. When, ultimately, the plaintiff was taken out of that police cell to meet his mother, he could not walk due to the said brutal assault, and his mother had to offer support and assist him to walk (*Liphapang Limema & Others v Commissioner of Police and Another*, 2011). He was ultimately taken to the Magistrate's Court with the help of his mother, who supported him from the police station to the taxi/bus stop. The plaintiff was never formally charged, even though he was taken before the Magistrates' Court. He was left outside by the first defendant and his relatives when they went into the prosecutor's office. After some time, the first defendant went to where the plaintiff had been left outside the prosecutor's office, and he informed the plaintiff that the prosecutor did not prefer charges against him; on that ground, he was released.

In the case of *Mosehle Molise v Officer Commanding Thaba-Tseka police post and 2 others* (2012), the plaintiff was bru-

tally assaulted by the police while in custody on suspicion of stock theft. The events took place on 08 May 2011. The plaintiff was hospitalised for more than two weeks. The assault on him was extensive. The plaintiff was released without a charge. The court awarded him damages. In *Thapelo Matsau v Commissioner of Police and Another* (2011), the court dealt with an assault by the police officers on the plaintiff. The arrest was also unlawful. The plaintiff was assaulted using a knobkerrie and hammer on his toes and was kept in detention for two nights. He was awarded a combined sum of M70,000 for unlawful arrest and detention, and M80,000.00 for assaults, torture, pain, and suffering.

Judicial calls for legislative reform

The case of *Kabelo Khabanyane v The Commissioner of Police & Others* (2023) involves a police officer who was charged with assaulting a visually impaired person. They threw themselves into his house, knocking him down, and then kicking and beating him with sticks under the guise of conducting the investigation. The Chief Justice indicated that the following are the reasons that perpetuate police brutality. He mentioned that a lack of political will to enact distinct anti-torture legislation and a failure to prosecute members of the security services implicated in cases of torture. This encourages the police to torture suspects to extract information. Failure to prosecute those found liable for assaults and torture by the courts in civil cases. This leads to the conclusion that assaults and torture are condoned by those in authority and are thereby institutionalised.

The Chief Justice went further to propose a recommendation which could, if implemented, address to a certain extent these inhumane acts. The court made two recommendations for tackling the enablers of police brutality: first, the enactment of distinct anti-torture legislation with heavy criminal sanctions. Second, provision for redress to victims of torture that is not limited to monetary compensation but includes medical treatment and psychological support. This is a clear indication that the court is aware of how extreme the act of torture is and that it not only affects the physical but also the mental well-being of a person.

A call was also made by the court in *Ratia v. Magistrate Rantso and Another* (2019), where the police had forced a suspect to eat human faeces. The judgment of the court was brought to the attention of the relevant agencies for investigation and prosecution of the perpetrators of this despicable and inhuman act. But nothing has been done to hold the concerned police officers accountable. The same obtains in the case of *Tjela v. Commissioner of Police and Another* (2020), where the court called upon the authorities to prosecute the perpe-

trators of the inhuman acts to protect the rule of law. There are many cases in this jurisdiction where the court is called upon to award damages to plaintiffs who are tortured by police. But as it has always been reiterated in this paper, this kind of suit is mischaracterised as assault because there is no torture-specific legislation.

Courts of Lesotho have cautioned the country about the bad reputation these inhumane activities earn for the country. The following comments were made: 'Above all else, all such gross acts of brutality and inhuman treatment and abuse during military detention tarnish the reputation of the Lesotho Defence Force and Kingdom of Lesotho internationally, continentally, and on the sub-continent, sooner or later turning it into a pariah state shunned by all right-minded people. The damage that can be done may be irreversible, with drastic consequences. Lesotho exists in a global village' (Matlhokomelo Jobo and Others v Commander-Lesotho Defence Force and Others 2015). The courts of Lesotho put much reliance on the principle of bodily integrity to proscribe acts of torture (McCrudden C, 2008). Good as it may be, the challenge is that since there is no statute interpreting torture and inhumane treatment, they rely on case law to assess the quantum of damages. This remains a challenge that could easily be curbed by promulgating a statute.

In the case of Maabele Ramakatsa & Others v. Commissioner of Police (2018), the matter involved habeas corpus proceedings in which the applicants' mothers requested that the court order the police to produce the bodies of their sons, who were held in police custody for an unlawfully extended period (beyond 48 hours). The police claimed to have taken the suspects (detainees) out of the country for medical reasons. This led their mothers to rush to court, suspecting that their sons had been tortured. The court had the opportunity to recount the history of Lesotho, which was marked by acts of torture and where perpetrators were allegedly immune from prosecution due to their enforcement of internal security laws. The court had this to say;

[27] Thus, the notorious practice of the police, (which I take judicial notice of), of calling people under the pretext of being assisted with investigations or calling them for questioning and subsequently causing them to die in police custody because of so-called interrogation fatigue (*Ho khathalla lipotsong*) is unlawful, antithetical to policing a democratic society and is reminiscent of police behaviour in the bygone era of dictatorial government when they enforced the notorious Internal Security legislation. In that era, the police arrested and detained persons and held them in custody for weeks, months and even years for purposes of

investigation and extraction of admissions and confessions for commission of offences by methods of violence and solitary confinement without access by family members, their lawyers and doctors: Sello v. Commissioner of Police & Another 1980 (1) LLR 158 (HC); Moloi v. Commissioner of Police 1982-1984 LLR 58 (HC). The new democratic dispensation has adhered to a new policing culture of respect for human rights and freedoms and corresponding accountability for their violation. It is for this reason that section 8 of the Constitution outlaws in absolute terms torture and inhuman or degrading punishment or treatment (Constitution of Lesotho, 1993).

This case demonstrates how far Lesotho has come with torture perpetrated by the police. The promulgation of the 1993 Constitution tried but did not ameliorate the situation, as it only outlawed it by saying that "no person shall be subjected to torture or inhuman or degrading punishment or other treatment". The Constitution also indicates that nothing shall be deemed inconsistent with the Constitution, even if that law authorises the infliction of any description of punishment that came before 1993. This creates room for the law that prescribed inhumane treatment as a punishment that came before the Constitution to still stand. The Constitution, therefore, fails to rescue the situation to the fullest. This is why torture continues. It also does not obligate the legislature to promulgate statutes that are torture-specific. This would mean, if it were so, that the Constitution, being the supreme law, just sets the principle and then the Act of Parliament entrenches the said principle. Unfortunately, the situation is different. This is why it becomes imperative for Lesotho to start afresh and construct the anti-torture-specific law and inculcate the international principles as encapsulated in UNCAT art. 1.

Civil damages

The courts often indicate that although victims register complaints of assault and torture, often no progress is made in arrests and investigations. Often, complainants end up suing the Commissioner of Police for monetary compensation, even though they may not have the medical statements, since they may be in the hands of the police. There are many cases where the courts have ruled in favour of the complainants who sue for delictual damages against the police, where they allege acts of torture and inhumane treatment.

In the case of Commissioner of Police and Another v Rantjanyana (2011), an Inspector arrested the plaintiff, a trooper in the Lesotho Mounted Police Service, in the same force on the allegation that he had helped a prisoner to escape from prison.

The award made by the High Court was M500 000.00. It was set aside on appeal and replaced with an award of M50 000.00. In *Officer Commanding Roma Police and Others v Khoete and Another* (2012), the first plaintiff was awarded M50 000.00 by the trial Court for pain and suffering endured because of a gunshot wound to his leg. On appeal, the award was reduced to M15 000.00. *Masupha v Tae* (2014), the plaintiff, a trooper in the Lesotho Mounted Police Service, was assaulted by a superior officer at the Maseru Central Charge Office, who pulled him into an office, closed the door, punched and knocked him down, and kicked him all over the body, shouting abuse at him. The award of M 17 000.00 made by the Court a quo consisted of M2 000.00 for pain and suffering and M15 000.00 for contumelia and was confirmed on appeal.

Mohlaba and Others v Commander of the Royal Lesotho Defence Force and Another (1996), the three plaintiffs were arrested, detained in very poor conditions, and assaulted. Their incarceration lasted one year in one case and six months in the other two. On appeal, the awards were increased to M75 000.00 (in respect of the year-long detention) and M25 000.00 and M50 000.00 in respect of the other two. In *Commander of the Lesotho Defence Force and Others v Letsie* (2010), the plaintiff was arrested and detained for 12 days, during which time he was for three days subjected to severe and prolonged assaults for three days, which included being suffocated by placing a blanket or plastic bag over his face until he lost consciousness. At the time of the trial, he continued to experience “flashbacks”. He was awarded M340 000.00 in the High Court for pain and suffering and contumelia. The award was reduced on appeal to M150 000.00.

Also, in the case of *Mokotjo* (2020), the court made an award of M275,000.00. There, the plaintiff had been in detention for 5 days, during which he was assaulted. In *Tjela*, the Court of Appeal reduced this court’s award of M400 000.00 to M250 000.00. *Mokhethoa Mokaka vs Commissioner of Police and Another* (2012), in which the court awarded damages in the sum of M250,000 for a broken arm. *Ramoholi vs Commissioner of Police* (2011), in which the court awarded damages in the sum of M250,000. In *Letsela Morobi vs Commissioner of Police CIV/T/230/10*, damages in the sum of R100,000 for bodily injuries were awarded. In *Mahlomola Makh’apha vs The Commissioner of Police* (2013), the court awarded damages for unlawful arrest and detention, pain and suffering with attendant contumelia – M500,000. Loss of amenities – R100,000. Interest at the rate of 18%.

Morie Motiane v Officer Commanding Mabote Police & Others (2007), was an action for damages for both physical and psychological torture of the plaintiff by the police. He was

arrested on suspicion of having committed murder. He was severely assaulted and suffocated. Medical reports showed swollen genitals, abrasions on both knees, wrist, chest, and back. Plaintiff’s claim was upheld, and he was awarded M50,000.00 for pain and suffering, M30,000.00 for contumelia, and M605.00 for medical expenses. *Mare Gilbert Taole v Sehloho & Others* (2010), the plaintiff sought damages as a result of unlawful arrest, detention, and assault of the plaintiff by the police. He was suspected of having stolen a laptop at his workplace. Liability was admitted, but the quantum of damages claimed was contested. He was awarded M200,000 for assault, M40,000 for unlawful arrest and detention, and M200.00 for medical fees.

In *Mokotjo* (2020), the court was called upon to decide the extent of delictual damages where the complainant was claiming compensation in monetary value, alleging acts of torture and inhumane treatment by police. The court indicated that in cases of assault and torture, the most important factor that determines the quantum or amount of compensation is the extent of the physical injury to be established with reference to the intensity, nature, and duration of the pain and suffering. Although the court was correct in principle, if the statute regulating torture were available, the legislature would have set out the need for reparations as a right and prescribed the formula in terms of Article 14 of the Convention, emphasising the need to afford compensation considering the gravity of torture in awarding compensation to the complainants (*Basic Principles and Guidelines on the Right to a Remedy and Reparations for victims of Gross Violations of International Human Rights Law and serious violations of International Humanitarian Law*, 2006). This means that, in the absence of that statute, the awarding of compensation to victims of torture remains an issue of judicial discretion and not a statutorily guaranteed right (*Nanima RD*, 2021; *Sarkin J*, 2014).

The right to reparations remains a right under international law (*The Universal Declaration of Human Rights*, 1947; *UN Human Rights Committee, General Comment No. 31*, 2004; *The African Court on Human and Peoples’ Rights*, in *Mtikila v. Tanzania*, Application 11/2011; *Zongo and Others v. Burkina Faso*, Application 004 of 2013). Under domestic law, the courts have the duty to afford effective remedies to victims of torture and inhumane treatment. This means that, over and above the judicial measures made by the courts to award damages to victims of torture, the need for the law remains. This will improve the legal guarantee, as the anti-torture law will give victims the right. The judiciary of Lesotho is remarkably doing a wonderful job of awarding damages case by case, but if the statute were in existence, it would provide a safer approach, provide a legal

guarantee, and afford the victims the right to reparations. This is a necessary protection in terms of the international treaties as mentioned earlier.

In the case of *Commissioner of police v Pheello Ramphane* (2025), the Court of Appeal was dealing with the quantum of damages, which the Appellant contended was excessive and unsupported by proper evidential and judicial reasoning. The Court of Appeal indicated that in making an assessment of damages, the court may be compelled to make an intelligent or informed estimate where exact proof is unavailable or incapable of precise calculation. It further indicated that the said discretion does not absolve the court from the duty to explain the basis upon which the award is made. It went further and said, 'even where damages cannot be quantified with mathematical precision and the court is constrained to make what has often been described as an "intelligent" or "informed" guess, the judicial officer remains under a duty to disclose the factors taken into account and the basis upon which the award has been reached.'

In *Commander Lesotho Defence Force and Others v Tlhoriso Letsie* (2009), the court stated that;

It is well established that each case must be decided on its own peculiar circumstances, and that the trial Judge enjoys a wide discretion to award what he or she considers, in those circumstances, to be fair and adequate compensation. Nevertheless, whilst it is undoubtedly true that no two cases are precisely alike, guidance must be sought from previous awards and, in the absence of decisions regarded as directly comparable, regard should at least be had to what Potgieter JA described in *Protea Assurance Co Ltd v Lamb* 1971 (1) SA 530 (A) at 536B as 'the general pattern of previous awards'. It is equally important that the trial court should furnish some reasoned basis for the amount awarded in respect of general damages, difficult though that exercise may often be.

Despite the court emphasising the need for provision of reasons for its judgment, which is a form of accountability demanded of judges, the court has made an important observation for purposes of this paper. The court indicated that it is sometimes difficult to decide the amount of damages to award in a given set of circumstances. The existence of anti-torture-specific law, though it will not restrict the judges to specific amounts, will serve as guidance on statutory considerations for calculating damages. Courts will also not be put in situations having to compare cases to look for similar circumstances in order to get guidance; rather, the statute will provide it. This

will make the work of the courts easier and more transparent and accountable.

In some cases, police officers leave the victims in the hands of the community. A society that is sometimes and mostly in pain tends to take the law into its own hands. Victims end up suing police for negligence and claim damages against them. An example is the case of *Maci Mokhankhane and Another v Attorney General and Others* (2018), where the plaintiffs were brutally assaulted by a group of twelve able-bodied men who tied them with ropes. The force with which the ropes were tied left deep scars that were clearly visible. The acts of torture and assault seemed to have gone on for a long time. The court observed that 'this should have been a traumatic experience for both plaintiffs.' The deep emotional scarring that this experience left on the plaintiffs was clearly on display in court as the 2nd plaintiff battled to contain the flow of tears as he narrated what happened to him. In his considered view and the fairness of the case, the court awarded damages as follows: Each plaintiff is awarded M50,000.00 combined total for contumelia, pain, and suffering.

In analysing the above cases, Article 4(2) of the CAT states that torture is one of the most severe human rights violations that requires a punishment severe enough to have a deterrent effect. This is the observation that was made to the Republic of South Africa in 2006 (CAT, 'Concluding Observations: South Africa, 2006'). Some Scholars opine that a custodial sentence of between six and twenty years would best correspond to the CAT Committee's interpretation of the requirements of Article 4(2) (Nowak M et al., 2019).

When reviewing the report of Austria, CAT also indicated that a penalty in the Criminal Code of the State Party of one to ten years' imprisonment for the basic crime of torture, allowing the judge to impose a minimum sentence of one year, is insufficient (CAT, 'Concluding Observations: Austria, 2016'). The CAT concluded that the minimum sentence for torture must be in accordance with Article 4(2). This means that when Lesotho drafts its legislation, it should at most make sure that the minimum sentence is that provided under Article 4 (2). This will help deal with the inconsistency that is seen in the cases above where the complainants are claiming monetary compensation in the form of delictual damages in civil courts.

Scholars such as Nowak M & Anna Z indicate that the intention to torture itself is the injustice that must be convicted. Additionally, they consider that circumstances such as the permanent disability or death of a victim, since they are aggravating factors, should not influence the severity of the sentence. They opine this because they hold that the intention of torturing a person alone holds the possibility of lasting physical and

mental effects and cannot be excluded based on the very nature of the act of torture (Nowak M & Anna Z, 2018). This means that torture need not result in permanent disability, death, or extreme consequences before criminal responsibility can arise. Those consequences become the aggravating factors. Therefore, the civil claims that are seen in the above cases are not enough because torture is multifaceted, as seen herein. The intention alone is an offence, so civil claims for damages cannot replace criminal liability.

Conclusion

The UNCAT art. 1 defines torture, while art. 2 (1) imposes an affirmative duty on the state to take effective legislative, administrative, judicial or other measures to prevent acts of torture. Significantly, these articles acknowledge both physical and mental torture, each having lasting effects on an individual. The paper shall not recapitulate the earlier analysis of the perpetrator's status. It must be a public official or someone acting as such, someone who is acting at the instigation of, or with the consent or acquiescence of the public official.

Torture, even if not committed on the scale of crimes against humanity, is regarded as a crime which threatens the good order not only of states but of the international community. Coupled with treaty obligations, the ban on torture has the customary international law status of a peremptory norm from which no derogation is permitted (Weissman DO, 2016-2017). As a result of this absolute ban, "the torturer has become, like the pirate or the slave trader before him, *hostis humani generis*, an enemy of all humankind". This statement, albeit in a civil case, applies equally to criminal cases. Torture attracts universal condemnation, and all nations have an interest in its prevention, regardless of the nationality of the perpetrator or of the place where it has occurred (Hathaway O et al., 2012).

Recommendations

Implementation of international human rights treaties is a task for all national authorities. In most systems, the legislator or the executive implements the State's international legal obligations correctly and on time. This comes through the adoption of the required legislation, or amending existing legislation, and by taking the required action, respectively.

Lesotho has two options at its disposal: first, to promulgate a law that is specific to torture and criminalise it. The CAT has indicated that, to ensure proper implementation of the Convention's provisions, the state should first recognise the provisions of UNCAT in its territory. Thereafter, the state should transpose the provisions of UNCAT into its law. In the case of Lesotho, which is dualist in nature, this means that

the legislature should promulgate the law that incorporates all the provisions of the UNCAT and make them law. This will also enable the courts to invoke them directly in dealing with cases before them. Also, the prosecuting agencies will charge and prosecute people under that torture-specific law. This will benefit Lesotho, as it has been reflected above that there are no cases brought by the prosecution on cases of torture because it is not defined by any statute in Lesotho.

Second, Lesotho can amend its criminal laws to incorporate Articles 1 to 4 of UNCAT (UNCAT, 1987). This exercise will also demand that minimum sentences and fines be prescribed for such torturous activities. Other modifications, such as the prohibition of corporal punishments, are critical in ensuring that Lesotho complies with the provisions of UNCAT in its effort to proscribe torture. These efforts will not only guarantee the protection of fundamental human rights but also put Lesotho in a good state, as this obligation remains hanging over its head. Implementation of international human rights treaties is a task for all national authorities.

On both options alluded to above, torture in Lesotho must be defined expansively to incorporate all the elements contained in UNCAT art.1. (Nowak SRT, 2010) All forms of torture must be criminalised, including all attempts to commit torture and all complicity or participation in torture (CAT General Comment No 2). The obligation to take effective preventive measures means that the state should embark on broader reforms in case of systemic failings. Empirical research has demonstrated that successful police reforms create a structure and instil an ethos that enhances the likelihood of effectively implementing the State's obligations in the day-to-day work of the police or other law enforcement agencies (CAT, General Comment No 3). This entails reviewing interrogation methods, improving conditions of detention, prohibiting the extraction of evidence through torturous activities, and guaranteeing the right to liberty and a fair trial (Constitution of Lesotho, 1993; UNCAT, 1987).

Other safeguards, such as the exclusion of evidence obtained through torture, are already in place. However, the envisaged law should be able to set out torture as an autonomous offence, reflect the penalties that align with the gravity of the crime, criminalise attempt and complicity, provide for universal jurisdiction, establish independent complaint and investigation mechanisms, protect people against reprisals, provide victim-centred remedies, clearly set out the compensation mechanisms which will guide the courts of law on the standards that they have already set as reflected in the case law above, and provide for rehabilitation of torture victims.

The CAT has also indicated that the legislative measures are insufficient to address torture. The Committee believes that law enforcement agencies, including public officials, judges, magistrates, prosecutors, and lawyers, should receive training so they can apply the Convention and the Committee's jurisprudence. It remains an advantage for Lesotho that judges are already calling for the promulgation of a torture-specific law. Also, regard being had to the discussion of case law above regarding police brutality, coerced confessions, and the international calls on the state to train law enforcement officials, the issue of training remains urgent. Also, many civil cases are being brought in which perpetrators of torture seek compensation. This means that lawyers and magistrates are not far behind in appreciating issues of torture; however, the continued occurrences of torture reinforce the need for holistic implementation of anti-torture measures across state institutions.

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