

Torture: the ultimate abuse of human rights?

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Speakers: Alain Aeschlimann, Victoria Brittain, Professor Chris Brown, Sir Nigel Rodley

Moderator: Lyse Doucet, BBC World

Chair: Professor Conor Gearty

Professor Gearty

I think it's terrific to see such a crowd here when you must all be preparing for exams. My name is Conor Gearty. I have a minimal task, a pleasurable one, of chairing in a most oblique fashion because my purpose in being here in chairing is to merely to introduce you to the moderator.

Before I do that I want to say that is the third time in my time here that we've had a collaboration with the International Committee of the Red Cross. We're delighted to welcome them back to the LSE. This is we think a fantastic partnership which stimulates tremendous debate and discussion and this year we have a fairly intense topic, and to guide us through the occasion we have a person who is I'm sure extremely well known to you, a senior and distinguished journalist from the BBC who has made many programme and reported from many places, Lyse Doucet to whom I now hand over these proceedings.

Lyse Doucet

Welcome to all of you to this special lecture sponsored by the Centre for Human Rights, the London School of Economics and also by the International Committee of the Red Cross. A special lecture which has been entitled Torture: the ultimate abuse of human rights? It's not a statement, it's a question. What is it about the world in which we live in 2005? Suspect words, places like Abu Ghraib, Guantanamo, Bagram, have all entered our lexicon. Think about those words, think about them now, what do you think? Do you think these are the front line in the war against terror or do you think that these have become by-words for abuse and torture?

Is it abuse or is torture? Is it as the American Defence Secretary, Donald Rumsfeld said in one of the hearings, "I think what is being charged here is abuse and that in the technical sense of the word it's not torture". So what is it about the times in which we live in that we are now splitting the difference, making distinctions between abuse and torture? What has happened in the last almost 20 years ago when the Convention Against Torture was signed on Human Rights Day? What has happened in the decades since the end of the Second World War in which we wanted to come up with a human-rights oriented approach to the issues of the day?

Think about the other words and other places that are in our consciousness. September 11th, Madrid, Bali, Chechnya, Jerusalem, all of these are seared into our consciousness as well. They are also symbols of the world in which we live. A world so dangerous such as the noted Harvard lawyer, Alan Dershowitz says, that we need what's called a torture warrant. The authorisation to let governments and those who interrogate have the right to interrogate people because they are not people they are ticking time bombs. We need to get the information out of them and out of them fast and besides Alan Dershowitz let's not be hypocritical, it's happening so let's admit it, torture is happening everywhere and we know it because the United States and Britain are subletting their interrogation to other countries around the world and they look the other way when they get intelligence and even when they don't.

So are the red lines gone when it comes to torture or are all lines now grey and do we have to start asking different questions about physical abuse? Those are some of the issues that we want to focus on today. We have a very distinguished panel here, we're very fortunate to discuss all of these issues and we are also very fortunate to have all of you as well because if the issue of torture is going to be on the agenda it has to be a public issue as well so we welcome all of you here today.

There will be time for questions after all of the speakers and we are going to end exactly at 7.30 but if you don't have the time to ask your question here don't worry because there is going to be a reception afterwards to which you are all invited, Senior Common Room, Fifth Floor of the Old Building, so please do come and because keeping to time is also a human right that all of you should enjoy we are going to ask our speakers to keep to time so they've all been asked to speak for about eight minutes, maximum ten minutes.

We'll start with a man who has, all of his life has been spent it seems dedicated to looking at this issue of torture and trying to ensure that it is a world where human rights are observed. So much time has he spent that the Queen recognised that and awarded him a knighthood in 1988, a recognition of his services to human rights in international law, Sir Nigel Rodley. He was the UN special rapporteur on torture from 1993-2001. He is currently a member of the UN Human Rights Commission. He's also a commissioner of the International Commission of Jurists. He's taught international law in many universities around the world. He's also published widely including the treatment of prisoners under international law. He's going to begin our lecture today by setting out the legal framework, the approaches to torture and also the moral and the philosophical basis. So please join me in welcoming Sir Nigel Rodley.

[APPLAUSE]

Sir Nigel Rodley

Thank you very much for the nice words Lyse, it's downhill all the way now. It's hard to do this one in eight, maximum ten minutes. It normally takes eighteen and as many more as may be available to do it. It should also on the other hand have been a fairly easy topic just two or three years ago.

Two or three years ago we thought we had it all nailed down in law. By and large one of the issues that one has tried to do is make into law the human rights construct, take it out of the realm of political and moral philosophical discourse and make it law. We succeeded probably more with the area covered by Article 5 of the Universal Declaration of Human Rights, 'no-one shall be subjected to torture or to cruel and human or degrading treatment or punishment' than any other norm in the human rights lexicon. It was already resolved in the level of armed conflict, in the Geneva Conventions, which prohibited as war crimes torture and inhuman treatment. The international human rights treaties have certain suspensive clauses in time of public emergency or war. The prohibition of torture and other ill treatment was one of those that were insulated from any suspension under any circumstances. The UN Convention Against Torture reaffirmed that there was no justification for torture at any time, in any place, under any circumstances. So it all seemed rather straightforward.

The seeds of the difficulty go back. They go back to a time when people at the European level, trying to apply the European Convention on Human Rights, sought to try to make sense of these words, torture, inhuman treatment, degrading treatment and they decided that what marked torture out from other inhuman or degrading treatment was the fact, one, that it was done for a particular kind of purpose like extracting information or confessions, and, two, that it was an aggravated and deliberate form of inhuman treatment. In other words a purposive element was added and it was at put at the top of a pyramid of pain and suffering.

It was an approach which NGOs objected to at the time and they particularly objected to it at the time of the Northern Ireland case when the Court found that the five interrogation techniques used by the British security forces in Northern Ireland, disagreeing with the European Commission on Human Rights at that time, were inhuman treatment but not torture. Those interrogation techniques involved being hooded, stood up against a wall, on tips of toes, spread eagled, subjected to loud noise, deprived of sleep, deprived of food and drink and for up to 24 hours.

So such treatment the Court held was inhuman but not deserving what it called the special stigma of being called torture and that's what it was, a question of special stigma, with no relationship, no relevance to the legal consequences, but the European Court of Human Rights took that view. NGOs including Amnesty, where I was working at the time, certainly objected to that but we were left with it. The Court has continued to maintain that position, except that more recently in the late 1990s in

a famous case, Selmouni against France, it made very clear that things that had previously considered to be inhuman treatment but not necessarily torture would now be considered torture and it was generally understood to be announcing a change of policy in terms of the application of the threshold at least between inhuman treatment and torture.

So where's the problem, if both are prohibited. If one looks at the kind of interrogation techniques that have been discussed recently, coercive interrogation techniques, the kind of interrogation techniques that say Donald Rumsfeld has been authorising at least in theory then if they are not torture they are certainly inhuman or degrading treatment. There isn't really much doubt about that and I'm not referring to what was going on at Abu Ghraib. What was going on at Abu Ghraib was outright torture, the process had gotten out of hand. But done properly, the techniques, the Americans might say, perhaps amount to cruel or inhuman treatment but don't amount to torture. In fact they don't admit, they don't get into the distinction, they just say no, it's not torture.

The problem is their own law and that's what they're concerned about. They have accepted that torture and cruel, inhuman or degrading treatment or punishment are violations of international law. They accept that in the international law of armed conflict, cruel treatment (in non-international armed conflict), inhuman treatment (in international armed conflict) are prohibited and they're defined the same as each other in the Rome statute, namely severe pain or suffering, treatment inflicting severe pain or suffering, only distinguished from torture by the purposive element, the need for the purposive element for it to be torture. There is no particular problem there. Their problem is their own law. They don't want their people doing that kind of job to be punished. Under the law incorporating the Geneva Conventions they might be punished if they felt that the Geneva Conventions covered the issues in question so they argue that the issues in question are outside the law. Al Qaeda for example don't belong to a state party and so they are not protected as part of international armed conflict and they're operating across frontiers so they're not protected by rules relating to non international armed conflicts so therefore they stay outside the Geneva Conventions.

Similarly the practices in question, they would argue, don't constitute torture which has been incorporated into American law, the definition of torture and the prohibition of torture at the time of the ratification of the Torture Convention, but the prohibition of cruel or inhuman treatment has not been incorporated in the same way into American law and that ultimately is what the game's about.

What about, those of you are at all familiar with international law might say, what about general international law, customary international law? Well it couldn't be clearer. Customary international law of human rights and of humanitarian law, the law of armed conflict, is indisputably prohibiting any form of torture or cruel or inhuman treatment but customary international law does not create rights in American law. It doesn't create criminal responsibility in American law. So they are

perfectly happy to deal with it. Some of you may have heard of the interesting evolution of high-level legal memos which eventually got made public in the United States. One of them specifically on the Torture Convention had a very lurid consideration of what torture was about. It only would happen if, in circumstances where the pain or suffering was the sort that fundamentally affected bodily or physical integrity to the point of something close to death or other really long-term physical disability. That memo was withdrawn and replaced by another memo that didn't take such a strong position and accepted that torture was prohibited under international law and indeed was probably a form of *jus cogens*, a kind of super norm of general international law.

The point is that it doesn't matter so much as long as they're not going to get caught, the people who do this, by United States law. I don't want to make this sound like an attack on the United States, it isn't. The people who are reported to have brought this stuff out into the open, are official government lawyers, of course doing it unofficially, people from the Judge Advocate General's Office. You won't meet anybody in standard legal practice in the United States that supports this stuff. All these legal memoranda were produced by political appointees but nevertheless it's an indication of the kind of thinking that is going on, they want to get into the realm of coercive interrogation and they are trying to create at least the domestic legal basis by a kind of reinterpretation of international law that would permit them to do so.

Others are going to start the discussion on whether or not that's a good thing. I suspect my own attitude has already emerged but I ought perhaps have a chance to elaborate on that a little later when we get into those issues. Thank you very much.

[APPLAUSE]

Lyse Doucet

Thank you very much Sir Nigel. Our next panellist may not need an introduction to some of you. Professor Chris Brown has been a professor of international relations here at the London School of Economics since 1999. You may not know that he's just published the third edition of his book, *Understanding International Relations*, now he wanted to tell you that in case any of his students were here, it doesn't guarantee better marks but maybe better understanding! He's published widely on classical and modern international political theory and international ethics. In 2002 he published the book *Sovereignty, Rights and Justice*. He's also taught at the University of Kent, University of Southampton and now he is with us here at the LSE today. So please welcome Professor Chris Brown.

[APPLAUSE]

Professor Brown

Thanks very much. When Conor invited me to take part in this about two months ago, he said look we'd like a really good row and we want somebody to defend the completely indefensible position so would you come along and defend the idea of torture warrants. It's a dirty word torture warrants. He said it's okay, we'll explain that you don't really mean it. I thought, yeah right that's going to go well, end up on the Web you know for the rest of my life, which is probably going to be quite short if I do that. I'm going to be lumbered with this.

I don't actually, I believe basically in outraging people with views I actually hold rather than views I don't hold and my views on this are probably pretty outrageous but I don't support torture warrants and for that matter I don't consider Alan Dershowitz as a distinguished Harvard professor. [LAUGHTER AND APPLAUSE]

Lyse Doucet

But he does teach at Harvard.

Professor Brown

He does teach at Harvard, yes, but this proves nothing. [LAUGHTER] Reputation is a wonderful thing. There was a study a few years ago in which the American people were asked to rank American law schools in order of preference and Number 6 was Princeton Law School. The Americans in the audience will know that there isn't a Princeton Law School but it still came 6th! I digress.

The position I do want to defend is a non-absolutist approach to virtually every ethical question including the ethics of torture. If I was going to identify with anyone and I don't really who has written on these subjects, I'm probably a bit closer to Michael Ignatieff's notion of a lesser evil which as far as many human rights people puts me beyond the pail immediately but there we go.

I should say I guess where I'm coming from because I think it's quite important that, certainly as a political philosopher I have to believe this, that one gets back to basics. In ethical terms I'm essentially a consequentialist. I'm an atheist. I don't think there's a god, I don't think there's any divine justice, nobody is going to come along and sort things out for us if we get it wrong. If we want to decide how we are going to act we have to basically act in terms of what the consequences of our action are going to be. I haven't got a great deal of time for the self-regarded nice consciences. If somebody makes a decision which involves doing the right thing, that involves letting somebody free, and causing them to shoot down a jumbo jet or knock down a jumbo jet, that's a disaster. It was the wrong thing to have done. If 350 people die like that

they are not going to be picked up and taken off to heaven. That's 350 lives gone and probably several thousand lives ruined. We have to accept the consequences of our action and our inaction.

Now what that means to me is that behaviour must be a function of the nature of the problem, the nature of the threat and I think that's particularly relevant when it comes to all human rights issues. If you think of English law, the famous Blackstone Principle, better that 10 guilty people go free rather than one innocent person is convicted. I completely agree with that. In terms of the criminal law it makes absolute sense. The horrors of being convicted, especially in the 18th century when Blackstone wrote, are appalling. The ten guilty people who get off, well if they are ordinary decent criminals as the expression goes, they'll get caught a few weeks later. It does a bit of harm but it doesn't do a massive amount of harm. Clearly that's a good principle.

Is it still a good principle if you're talking about 10 potential mass murderers and I'm afraid one of the features of the year 2005 is that there are quite a lot of people out there who would like to kill everybody in this room irrespective of their views. They don't care about their views. They don't care about the students who are going to university on the Madrid train. They don't care about the Hispanic, African-American cleaners in the Two Towers. They are killing because they believe that the society in which they are attacking is essentially evil. Now in those circumstances it does seem to me we have to think through what is acceptable behaviour and what isn't and maybe come to conclusions which we might not come to in other kinds of circumstances.

Does this justify torture? Basically no. In philosophy books before it became a real issue, if it is a real issue, there used to be these examples in ethics, would you torture somebody if torturing somebody was the only way within the next 10 hours that you could find out where the nuclear weapon in the city was? Would you torture somebody in those circumstances? Well the answer to that, as far as I'm concerned, is yes, of course I would and I hope any of you would too but the point is that kind of situation only appears in philosophy textbooks and on the programme 24 every week where Jack Bauer is continually having to torture people in order to save something or other but it's work of fiction. Life isn't like that.

Torture is wrong for a lot of reasons. It's wrong because it does bad things to the people who carry it out as well as the people on whom it is carried out but it's also wrong, even if you are the most crude consequentialist, and I try to be a sophisticated consequentialist, but even if you are a really crude one it's wrong because it simply doesn't get good results. If you inflict severe physical pain of the kind that Dershowitz is talking about, he will say anything to get you to stop, they won't give you proper information, it's an idiotic idea.

Where I think there is a grey area and I think that was Conor's text that I ought to be talking about. I hope you are finding a grey area. He's nodding now so I'm moving

into the area of being okay! If there is a grey area I think it is in terms of what constitutes torture and at what point does an effective interrogation cross a line and I think there is an element of greyness about that line. It's not quite as clear cut. If you look at Dershowitz, I said I wouldn't, if you do he talks about the infliction of deliberate physical pain, it's really rather unpleasant to read what he's suggesting. You know, heated needles under the fingernails, that kind of thing is awful and ineffective and we're totally against it.

In the course of the last 30 years the definition of torture and if not the legal definition because I'm not a lawyer, Sir Nigel is, the kind of definition that human rights advocates would want to put forward has widened way beyond that. Lots of forms, as we heard earlier, of interrogation that don't involve the direct infliction of physical pain have been a problem. Again I'm not sure I've got an answer to this one but I do think there is a serious question here.

A lot of the law was produced to deal with, or as a consequence of dealing with the IRA. The British government's methods of handling the IRA have been repeatedly criticised and in my view correctly criticised over the last 20 or 30 years. Many of the techniques that were used against the IRA were it seems to me obviously inappropriate and wrong and I don't have any problem with that judgement. Where I do have a problem with is the idea that because something was wrong when it was applied to the IRA it would also be wrong when applied to everybody else in all other circumstances. One of the things about the IRA, which I should hasten to add I regard as a despicable political movement, is that they did for largely political reasons make a major effort to distinguish between their victims. They did not attempt to kill non-combatants. They were sensitive about that kind of issue. Measures dealing with them I think have to take that into account. When you're in a situation where you as part of the security forces are responsible for the security, not simply of other members of the security forces but of your passers by, random people in the streets, ordinary civilians, men, women, children, schoolchildren whatever, in those kind of circumstances I'm not wholly convinced that we can use the same kind of absolute sense of what is wrong that we might use in less dramatic circumstances.

I'm certainly not happy with what went on at Abu Ghraib and I think a lot of things that are going on at Guantanamo are not good, but the idea that one might occasionally use psychological techniques to undermine people and to try and break them in interrogation doesn't strike me as being totally off the board given the context we're talking about. At what point does that kind of thing become torture? Good question. I don't think frankly we, you know, I think the attempt to produce a kind of list of things, we can do this but we can't do that, is going have to remain context sensitive.

So that I think is basically what I want to say and I'm sure Conor will find it absolutely appalling, not quite as bad as he wanted it to be. For example nobody has physically

attacked me yet which I think was the original idea and I guess I've had my 10 minutes so I'll leave it at that point.

[APPLAUSE]

Lyse Doucet

In fact you gave us 1 minute back and of course Professor Chris Brown will be at the reception and we will try and keep an eye on anyone who approaches him! However thank you very much Chris, in a very sympathetic way, raising some of the main questions that we would like to deal with. What is acceptable behaviour and is there an absolute sense of something that is wrong. I hope you will be able to answer the questions, all of these very good questions that are being raised on our panel.

Our next panellist, if you're a Guardian reader, or even if you're not a Guardian reader probably doesn't need any introduction. Victoria Brittain has reported widely for many years right across the globe. She's been to Saigon, Algiers, Nairobi, Washington, any place where there is a problem, Victoria Brittain has been there. She's been to many places and she's seen a lot and maybe she now thinks she's seen too much and the passion with which she writes has led her also to be not just a journalist but a consultant with the United Nations. She's also been a research associate here at the London School of Economics and most recently and some of you may know, she co-authored with the South African writer, Gillian Slovo, the play Guantanamo, Honor Bound to Defend Freedom and if you weren't worried about Guantanamo before you went and saw the play I can guarantee you would be have been deeply troubled after you saw it. So Victoria Brittain joining us today to talk both on Guantanamo, but not just Guantanamo, the view from the ground. Victoria Brittain, please welcome her.

[APPLAUSE]

Victoria Brittain

Thank you very much Lyse. It takes a journalist to love another journalist. I'm not sure whether this is really a view from the ground because I certainly haven't been to Guantanamo and I have no intention of going there but that is in the way the focus of what I want to talk about.

But I want to start by talking about something that happened and was not in any of the papers that I normally read. I only heard about it from somebody within the UN last week which was under pressure from the Americans and rather surprisingly backed by the EU in Europe though not the EU in Afghanistan, the UN took the surprise decision not to renew the mandate of the UN's independent expert on human rights in Afghanistan. He is a very distinguished law professor, Cherif

Bassiouni, from DePaul University, Chicago. It seemed very curious, why was this? Surely it wasn't because human rights in Afghanistan was suddenly all right and no concern. The real reason was undoubtedly because Mr Bassiouni has made many efforts to inspect the 14 United States run fire bases where not even the ICRC has been allowed in. The real concern of the people who removed his mandate was nothing to do with what Afghans might be doing to each other and particularly to their women, but with the American determination to continue to use those fire bases and Bagram and Kandahar for holding and torturing people in secret as its done now for more than three years.

In addition with the increase in pressure from the American legal system, some of which Sir Nigel began to touch on, to get access to their clients in Guantanamo, the American military top brass would really like to get some of those men from Guantanamo taken into a place where they can disappear before they might by any chance appear in a federal court and the key places that they chose to disappear them are Afghanistan and Uzbekistan. An efficient, UN independent expert like Mr Bassiouni would be extremely inconvenient for the next stage of the cover up of what has now become the US normalisation of torture and this is just one example of the current struggle by the Americans to keep on with the so-called war on terror by any means it can in defiance of international law and holding thousands of men, often sold by corrupt officials, and using torture to get completely meaningless confessions.

Sir Nigel referred to the famous memos and I think of those memos as the Pentagon papers of 30 years ago which now confront Mr Rumsfeld, General Sanchez, Attorney General Gonzalez and others, and I urge any of you who are not only reading law but who are interested in these issues to have a look at these weighty books. One of them is like this fat but what these memos reveal is the insight into the mindset of these people and it's a fairly extraordinary and extremely frightening vision.

As a result of these memos and other things that have been published nobody who has paid attention can say they don't know what's going on and they don't know who is responsible and that applies of course to the British government which prefers not to know. Well it's quite clear from these memos that torture is sanctioned from the top whatever they want to say publicly.

In addition the American civil liberties union and the Centre for Constitutional Rights in New York, acting rather amazingly in conjunction with a former army chief judge, have got a flood of 33,000 documents released under the Freedom of Information Act and these documents give the details of the American administered torture in Guantanamo, in Bagram, in Abu Ghraib and elsewhere in really unbearable detail and they reveal also a great deal about the Orwellian policy of extraordinary rendition which was referred to earlier.

But now of course we have evidence from many free prisoners. Prisoners come from many countries, many backgrounds and they all have exactly the same unbearable

stories. What amazes me is where is the moral outrage about all this, just one US Congressman, Ed Markie who is putting forward a Bill against rendition. The European Parliament has in fact now condemned the use of torture but neither in the US nor in the UK is the issue of torture at the top of the agenda for anyone powerful as it should be and in the last election campaign I was completely amazed that everywhere where I went to speak people wanted to ask about torture. Maybe because they knew about the play or they knew what I wanted to talk about but people wanted it on the agenda. It was not on the Labour Party agenda.

The fact the moral outrage, where are the powerful voices backing the very many seasoned intelligence officers who have said that many, probably most, of these prisoners are completely innocent and have also affirmed that the information that they're giving is completely useless and that the methods used, specifically torture, actually do not work and anybody who has read any histories of Latin American dictatorships or apartheid South Africa knows its fact, torture doesn't work. As the Professor said just now, people say what ever you want them to say under those circumstances.

So I want to come to say a few things about our hosts, the ICRC, and their role in the world today. They know all these things I've been talking about and of course much more and I have many experiences of working with ICRC people particularly in African wars where I've been working. They've made public declarations on Guantanamo and the terrible effects of the uncertainty under which people are held. The terrible effects this has on people's mind and for the ICRC that's a step away from how they normally behave but I want to say that this is not just any war and this is not just any power ignoring the legal norms of half a century. Talk to any of the released prisoners from Guantanamo or family of a prisoner who is still there about the ICRC and what you find is terrible disillusion. I'm hoping that the ICRC will decide to change its rules for this new situation and give a public moral lead against US torture in completely public and unequivocal way.

I just want to mention a little bit about the classis literature of torture, which again for any of you who are interested, reads what happened in the French war in Algeria once books like *La Question* and *Les Contes* and *La Gangrène* were published. French public opinion said not in our name of course as the war changed.

30 years ago Amnesty described torture as a cancer, degrading those who used it and those who benefited. Torture is the ultimate corruption said Amnesty. 30 years ago they were right then and they are right today.

Now what we have in the American situation at the moment is an attempt to roll back our civilisation by forgetting this, all this, but it must be strenuously resisted. I find it actually appalling that at the beginning of the 21st century we are having to have an evening like this. It should be a given in our society that there is an absolute and torture under any circumstances cannot be condoned. What also ought to be a given is that those responsible for it should, as has been attempted against Mr Rumsfeld in

Germany, not yet successful, but still underway, is a trial for war crimes. The ICRC would be the first and the most wonderful and utterly impeachable witness for this attempt to claw back humanities great traditions over half a century of real concerns for human rights. Thank you ICRC.

[APPLAUSE]

Lyse Doucet

I'm so glad you ended it with a smile and a thank you because Roland Huguenin-Benjamin who played such a key role in organising this was getting more worried by the minute when you mentioned the ICRC but he ended with a smile as well. So thank you very much for setting out some thoughts and also some examples of what's been happening with the United States in terms of setting the agenda and of course taking the action such as the responsibility and the role of the only super power, in the country of overwhelming military power in the world in which we live and of course she has laid down the gauntlet for the International Committee of the Red Cross and I think it would have been remiss that if we were discussing torture and the treatment of prisoners that we didn't have someone from the ICRC here today because of course for many decades they have had a very special mandate when it comes to protection and when it comes to prisoners. Fortunately one of the aspects of that special access is of course the secrecy and Victoria has raised the question that many others are raising including the ICRC itself as to whether it should be kept secret when such crucial issues are now at stake.

So we are going to now turn over the panel to Alain Aeschlimann, who has come all the way from Geneva for us. He's Swiss and a lawyer. Those used to be prerequisites for working at the ICRC but they are modernising. You don't have to be Swiss any more but he is and we are very, very grateful that he is here with us. He's worked in Iraq, in Israel, in the Palestinian territories, in Peru, in Angola and in Ethiopia, countries that are in and out of our newspapers and headlines all the time. He's been with the ICRC since 1987 but since 2003 he's been head of the Central Tracing Agency and Protection Division and I think anyone who has worked in ICRC and has worked in prisons knows much more detail than any of us will ever know of what happens to prisoners inside and outside the cells and Alain is going to share some of his reflections today on what's it like to be a prisoner and to be treated in certain ways. So please welcome Alain Aeschlimann.

[APPLAUSE]

Alain Aeschlimann

Thank you very much. For me it's really a great honour to be here and I feel very junior in comparison to the former speakers and the moderator and I am very

impressed by all your respective professional endeavours and your personalities. When taking the plane from Geneva this morning I was a bit, as a Swiss football team coming to London to play Chelsea, Arsenal or another club so...

Lyse Doucet

Scared.

Alain Aeschlimann

Not scared but really aware that I'm playing this evening in a type of champions league. In my presentation I will go out of the legal discussion or legal arguments. I will not discuss about international law or issues related to it. I will not centre my discussion on the ICRC, on our organisation. I've heard what you, Victoria, said. I imagine there will be questions on this and I will be ready to answer but I will not focus on issues like this now.

Just, it might be useful to keep in mind as a background that the ICRC have been visiting last year about 570,000 prisoners in the world, in 80 countries and about 2,500 places. So this is just a background to keep in mind and to be aware that we do not peek only about Abu Ghraib, Guantanamo or other places that you mentioned before.

The issue of torture and ill treatment, is a concern in a lot of countries where we are working, where we are visiting and we are very aware that the prevalence is probably higher in countries where we don't have access and where we don't visit. When we look at the list established by Amnesty International about the countries where torture is used or is prevalent or systematic, the number of countries is very concerning.

As you mentioned I'm a lawyer, more exactly I was a lawyer. Today, I wish to centre my words on human issues, on human touch and human aspects. However, being a lawyer I know very well that lawyers have a tendency to have a smokescreen between facts and feeling and to describe everything through rules. And I say this because the core of my words is this issue of threshold you mentioned Sir Nigel. I think we need to overcome the discussion which focuses only on the question to know if an action is a method a torture or not and to move the threshold discussion on the issue that is underlying all these actions, the human suffering, a meaning we don't hear so much in the debate currently taking place. Yes the real issue is suffering and what it really means. And here, we are not just speaking of discomfort but we are speaking of people who are totally broken after having been in places of detention and indeed broken for life. And I really think that this issue of threshold has to be moved and that we have to discuss what is human and what is inhuman, what

is lawful and what is unlawful, what is respecting human dignity and integrity and what is not respecting them.

Here we don't speak on theoretical concepts. We have to see always all circumstances of the case. Each individual will feel and react differently when subjected to the same methods.. So the impact of a treatment or methods, are very depending on a lot of factors, as mental health, the physical resistance, the past history, age, sex, cultural aspect. The prevailing situation or the accumulation of several practices are all elements to consider. Sometimes a single act is definitely torture. Sometimes it's torture because of an accumulation of practices over a certain period whereas the same practices would appear totally harmless if taken in an isolated manner or outside the context in question. These are elements very often difficult to explain. And when we speak of torture or ill treatment we have always two aspects to consider, the psychological one and the physical one.

The psychological one is much more traumatising when you discuss with victims. It's always an element that is coming out and it's a much more difficult to identify for our people and to quantify. This psychological element is also in my view very absent from the public debate. I will give you some examples from my experience.

I remember, once I met a physician doctor held in a place of detention. He was a physician doctor for a developing country. I say this because very often to be a doctor in such context means that you belong to the elites. He had been submitted to a treatment hard to say as such or in abstract that it is torture or ill treatment. There had been an accumulation of "small" harassments, some "small" repeated humiliations and solitary confinement, all this for months. When I met him, I gave him the opportunity to write what we call Red Cross messages, meaning letters to his family, but the guy could not write any more. He had lost his ability to write. So put yourself in the situation, being also intellectuals, and suddenly you don't know any more how to write....

Another time, I met a guy who told me, he thought that he was losing his mind, that he was becoming crazy. So I ask him, why? He told me it was because of the air conditioning system. It was in a country where you need air conditioning system all year round. He had been kept under strict isolation for months, with no human contact except guards who gave him food. From time to time he saw an ICRC delegate for a while and he would go out into the open air for only 20 minutes a week. Light was on 24 hours a day and of course air conditioning 24 hours a day. He told me what was more difficult was that he could not switch on or switch off and it was the only noise he heard. So he arrived at a point where he thought that this noise was a part of his body.

So these are elements very difficult to say in an abstract way, yes it is torture. It is just to show you what we are speaking about and what all this means. Sometimes it is very difficult to sustain, at a personal level, to see how people have been broken

[END OF SIDE]

I met once in a place of detention a former military Commander. He had been a Commander of more than 10,000 men in a conflict situation. In an army if you have such a position, it means that you are a strong person and you have an outstanding personality. Suddenly, this man started to cry in front of me, really as a child, and he told me, "I'm out, I cannot sustain this any more". He had not been tortured in the sense of physical torture etc. So it was again an accumulation of elements that finally lead to a situation where a person is totally broken. Afterwards, when we discuss with authorities of the concerned place of detention, they will very often tell us that it is fine, that nothing happened and that detainees are lying to us. And it's clear that proving scientifically that something happened is very difficult. So this element of documentation of torture and then making representations are difficult. We really need to work on the basis of goodwill. Authorities have to understand that we communicate elements we monitored but that we are not investigators and that we are not bringing evidences. This human element and aspect is always in the centre.

I have been many times told to be naïve, idealistic, unrealistic and sometimes angelic. However, it is clear that security concerns, the fact that a society has to be protected, a population has to be protected, are very important elements we are very aware of and we consider.

For example, when I was based and living in Tel Aviv and there, every time there was a bomb blowing up, it's clear that my first reaction was to call my wife to make sure that my family were not in the places that could have been hit but. At the same time I also continued to have discussions with the Israeli authorities concerning the respect of basic rules with regards to the treatment of detainees and to remind them of their obligations in this respect. Very often, they told me: "yes but what would you do in this situation. How do we work to get information, to protect our people?" etc.. I always answered the same that it was not my job to tell them how to collect information and that I was not an intelligence officer. Sometimes officials complain that it is very easy to give such an answer. As a matter of fact there are people who are professional in intelligence gathering and it's not our profession to make investigations and advice on methods of interrogation.

I will finish with this, that the High Court of Justice in September '99 in Israel clearly stated that methods of moderate physical pressure based on the so called Landau rules were illegal in the national system. Shortly after, there was an interview by the Ha'aretz newspaper of a famous person who was then special rapporteur on torture, Sir Nigel Rodley, and they asked him the same question. I remember he gave the same answer but he added something. He added that when you need intelligence information you have to invest on staff, you have to invest on material, you have to invest on building and it costs money. It's clear that when you use ill treatment or torture, it is a short cut to get information.

So just to conclude, you understand from my perspective that this principle of humanity has really to be preserved and to be put in the centre. It is in law but it's not only because it's in law. I really mean that the side effects and uncontrolled consequences of opening the Pandora box are much too high. This is now on the table in international fora and you mentioned in this respect the United States but we see in a lot of countries where we work that it is much more difficult now and that people are really contesting the absolute prohibition on hampering the integrity and dignity of human beings. I think we cannot take this risk and personally I am convinced that in the mid- to long-term the price of such a move back into civilisation would be too high. Thank you.

[APPLAUSE]

Lyse Doucet

Thank you Alain. Thank you to all of our panellists who have raised many, many important issues and questions. Sir Nigel began by exploring some of the legal basis, both domestic and international law that either forbid or allow forms of torture and abuse. Professor Chris Brown who bravely asked whether there was acceptable behaviour, are there grey areas now in the world in which we live. Victoria Brittain looking at some of the justifications used by Western governments, in particular the United States, and asking whether there was more that humanitarian agencies including the ICRC could do and Alain bringing us back to the most fundamental of questions, because at the end of the day this is what we're talking about, what is human and what is not.

Now we are going to turn this lecture over to you, to the audience.

Question 1

I would like to ask Sir Nigel Rodley, what the implications are and whether they are "good or bad" of Private England, I can't remember, the lady who has just been told that her confession in an army court was not acceptable to law. Is that good news or bad?

Sir Nigel Rodley

It's positive from a legal perspective in the sense that it was clear to the court, both from her testimony and that of Sergeant Grainer, her superior (and he had other relations with her apparently), that she thought she was following orders and if she thought that she was following orders and given what she was charged with which was not torture, she wasn't charged with a war crime for which the defence of superior orders would not be available, she was actually saying she wasn't guilty and

so the court opens it up and it's potentially a possibility for Private England and her defenders then to do what they were threatening to do from the beginning which is to try and take the responsibility further up the hierarchical ladder. Whether it will actually work or not is another question and I'm not familiar enough with the way the United States army legal system to know whether in fact that will happen or some other kind of deal will be done but at least it has opened up the issue for a little while longer.

Question 2

I do not know whether the panel will agree with me that the greatest university of torture is Israel and the principle graduate is United States followed by Saudi Arabia and Egypt. The all idea of perfecting the torture is learnt from Israel and if you look at Iraq now at the moment, all comes from operational Palestinian for 50 years and this is the perfect, you see, university.

Professor Chris Brown

I was at a lecture a couple days ago, chairing it in fact, by Fred Halliday and one of the points he made was that the obsession with Israel and the Palestinians had distorted people's minds. The oppression of the Palestinians is an issue but Israel's right to exist is also an issue. On the course of 50 years of so called oppression in this way far fewer people have died or been oppressed by the Syrians in an average decade or the Iraqi's or many other people so I think the idea that this is all learnt from Israel is just anti-Semitic rubbish.

[APPLAUSE]

Sir Nigel Rodley

The issue of torture has happened and does happen in so many countries around the world and some of it is crude enough that it doesn't need too much teaching that it is very hard to say who are the torturers teaching whom, who are the professors and who are the students.

I would say that one of the big mistakes the United States made in respect of Iraq was to keep open Abu Ghraib. Frankly Abu Ghraib was one of the worst torture centres in the world anywhere and I am familiar with the kinds of allegations that came from both countries and as much blood as came out of Abu Ghraib under Saddam Hussein unfortunately, but that doesn't excuse anybody else either.

Question 3

My question is really about jurisdiction. If since 9/11 this issue of torture has been internationalised and terrorism has been realised as a global menace, have there been efforts to sort of perhaps lift a jurisdiction out of the, well people who are not even charged in the case of Guantanamo, if there are going to be interrogation for them to follow under some sort of international regime where they will not be so...the efforts to get information out be done in a sort of a clandestine way?

Victoria Brittain

It would be wonderful. All those people in Guantanamo would be absolutely delighted to come to any court, particularly an international court, but everything that the Americans have done to try to prevent the Supreme Court ruling that there is jurisdiction in federal courts for the Guantanamo people, I mean that has been the big American legal battle to prevent that taking place. So I see absolutely no chance and as I said earlier what's actually going to happen I think is that Guantanamo gets closed because of international pressure and pressure from the American legal section, those people far from coming before any court will simply disappear into the black holes of, as I said, Bagram and Uzbekistan and presumably other places too.

Could I just say one thing? You raised the question of September 11th and it is always given as the justification by the Americans for having to have a new regime and even Blunkett has frequently said, we are in a new world because of September 11th and the distinguished professor said earlier that there are people in the world who want to kill everybody in this room. I have to say I think that's absolute nonsense and I am astonished a person of his standing in a place like this would actually say that. You know it's not true just as you know that September 11th does not constitute a new world. It does not justify the war on terror and in fact as we know what the war on terror is doing is creating more and more terrorism and the use of torture in this unproductive way is also creating more terrorism. So I just wanted to...

[APPLAUSE]

Professor Brown

I think the business about torture creating terrorists is absolutely correct and that is another reason not to do it on the whole. Is there a threat? Do people want to kill other people? Yes, they do I'm afraid. The people on those trains in Madrid didn't do anything to deserve it. They were simply students going to a university. Somebody killed them because they were Spanish, it's as simple as that and these are...what we've seen in the last few years and I agree the war on terror is the wrong expression. It's far too general, it's must more specifically, but what we've seen in the

last few years is the return of the objective enemy. Something that I think people thought had died out in 1945.

The idea that people are evil, not because of anything they've done, but because of who they are, Hitler turned on the Jews on that basis and gypsies and I'm afraid Al Qaeda regard citizens of Western societies in pretty much that way. The real danger of course is that it produces a reaction, people in Western society start creating, treating Arabs in that way and then we get into a vicious spiral but I don't think we'll avoid that spiral if we deny the basic premise. If you don't think Al Qaeda wants to kill you, you obviously haven't read enough of their declarations.

[APPLAUSE]

Victoria Brittain

Could I respond just to that?

Lyse Doucet

No, I think we've established that you have a view and you have a certain point of view. [LAUGHTER] and I think these are all university students and they've seen the difference.

Question 5

Several of you have made the point that torture, whatever its legality or morality, is not effective as a means of extracting information. If that's the case and torture doesn't provide reliable information then why do you think the US and the UK approve of a policy of rendition?

Alain Aeschlimann

I did not say that it is not effective, meaning I don't know it. It's clear that if we look back in history it has been used for so many years that it is not possible to say that it's not useful. What we say and we think that there are other means to get information. It probably takes more time and requires more money.

Sir Nigel Rodley

I will try and come in on this one. What people say correctly is that torture is unreliable. That doesn't mean to say that all the information extracted under torture is

necessarily wrong, and any intelligence service that uses it can probably point to examples where they have obtained information that was helpful to them in their fight against whatever organisation it was that they were trying to resist.

It's unreliable certainly for legal purposes and this of course is one of the issues that is overlooked in terms of the moral arguments. You can't do both to the extent that you use the sloppy way, I think Alain referred to it as, the sloppy way of getting information which is torture or similar ill treatment. You are ruling out their being able to bring the people in question before a court. I'm sure that's one of the very reasons that they are still continuing to be kept through other than normal judicial means. So some of the worst perpetrators on earth may well end up being free of judicial condemnation precisely by virtue of the use of improper techniques of interrogation which is of course one of the reasons why the FBI has tried to distance itself a lot from it as has the Judge Advocate General's office.

Question 6

The question follows on from that one. Most of the panellists, apart from Alain, did use the argument that torture doesn't work and is clearly also unsavoury. It's quite an easy argument to make, so it doesn't work out, it's nasty, therefore we don't support it. If it could work, not so much to bring about legal benefits, but bring about security benefits, what are the strongest arguments against using these techniques of coercive interrogation that the US is putting forward that don't rely on an argument saying that they don't work?

Victoria Brittain

It's just one argument. It's morally wrong. You needn't go any further than that.

Sir Nigel Rodley

I would like to come in on that too. The problem of course is what kind of ethical principles you are evoking in order to assess the situation. I hold myself to be a rule utilitarian which means that I may see this in a particular context. Balancing a particular set of facts, may make you come down one way rather than another, but if you see the issues in normative terms rather than in individual situational terms you might have another solution.

The fundamental problem and it's related to the utilitarian argument is the slippery slope argument and we've seen it time after time after time. Victoria made reference to the Israeli experience that led to the High Court of Justice decision. The moderate physical pressures approved by Justice Landau were meant to be short of torture, pressure short of torture and most of the time they might have been except for the

length of time they were used, probably cumulatively, Alain's point is important here, they may have amounted to torture anyway but the argument was that it was only for the ticking bomb situation and the pressures were limited.

What happened in 1995, I think, was that somebody died under the use of those pressures. What was the response of the Israeli government? Well this was the first death in 8000 cases which led a representative from Amnesty to ask does that mean there were 8000 ticking bombs? The point is that you can't stop the rot once you have allowed the rot to set in and I fear the same is also true for the redefinitional approach. You can redefine anything out of existence if you want, the problem is to avoid doing that and the answer just simply has to be it can't be done. The law is too weak a reed actually to make it possible to define if we could agree on it the kind of exception that we are talking about and we are not just talking about ticking bombs.

Question 7

We are all from women's group. We are asylum seeker from many different African countries. We have been tortured but this is not organised. For example we have been raped, we are told it's not a torture, it's a soldier looking for sex and then as a result we are homeless. There are many that end up saying that we are bogus asylum seekers. What can be done about this issue which women are facing?

Lyse Doucet

Thank you for sharing some of your terrible experiences with us. I don't know Victoria if you want to say?

Victoria Brittain

Yeah, I would like to say, what can be done? It's fantastic that you've spoken at this meeting and I hope everybody here listened and thought about it afterwards. Most people here are British. How come they are not responding to you? I hope people will come and talk to you afterwards and will offer you help. I certainly would like to talk to you afterwards.

Sir Nigel Rodley

There are organisations out there precisely aiming to help asylum seekers who have been tortured, the UK Immigration Advisory Service, Redress, the Medical Foundation for Care of Victims of Torture who can help provide medical documentation and there is a lot out there that are able to help people like yourself

and yes rape is a form of torture if committed at least particularly in interrogational context and a war crime.

Question 8

I think that one of the key issues here is where do we draw the line and I think that perhaps most people here would agree that the use of raised voices during an interview or during an interrogation is perhaps acceptable but when that graduates to the use of white noise or of stress positions or even as far as physical violence, I would be interested to see where do our panellists think that the line lies and how do we begin to distinguish between torture and between acceptable behaviour?

Professor Brown

I think partly what I'm saying is I'm not sure you can draw that line because you said psychological pressure and some people would say that a purely verbal psychological pressure can do considerable damage to the individual and I would say in a lots of circumstances that's the way it goes where in an extremely situation if it's necessary, it's necessary. I think one has to be context dependant.

I am very unhappy at the idea that we can...I know that's why I'm not a lawyer you see, I'm a political scientist...I'm not happy with the idea that one draws up a list of procedures and say that, that, that's out, that, that, that's in. I think life quite often isn't like that. I mean we may need to do that but quite often you'll find that people break the rules in circumstances where somebody else will say yep, in similar circumstances I would have done the same thing. So I'm not sure that the search for clear cut categories is actually terribly fruitful in this context.

I mean if you are in a position where you can simply dismiss issues by saying it's a moral issue, end of story, then obviously you can draw the line wherever you like, wherever it makes you feel comfortable but if you are actually in the real world I don't think you've got that option available.

Alain Aeschlimann

I tried to also to mention that it's very difficult to be general and that we have to see the issue on a case-by-case basis. You know we have a lot of concern with regard to psychological effects, and I mentioned several cases of isolation meaning when people are held alone with no social contacts for a long period of time. As human beings we are social animals and we need to interact with others. When you put somebody for years in a totally isolated place, there are risks that the person loses his or her mind. In some countries you have people sentenced to death that is then turned to life sentence and they stay really all their life in. I have in mind a country

where this category of prisoners stay for 30 or 40 years and they are only two people in the same cell for so many years. No activity, nothing, and all of these people after a couple of years become crazy. Simply it's not possible being a human and to live in such a situation.

All these elements are very complicated and make it impossible to draw a line and to say yes, such method is acceptable in all circumstances.

Then we have Courts, which decide on what is legal but it's always a post effects assessment. Here we are speaking of issues with direct consequences on the life, health and integrity of a person. I don't think that it's possible to be so strict and say such a method is human whatever being the circumstances.

Lyse Doucet

I think I will because it's such a fundamental question but very, very briefly.

Sir Nigel Rodley

And just to say that many techniques were known when the UN Convention against Torture came up with the first definition of torture and what they did say, 'the intentional infliction of severe pain or suffering whether physical or mental' and that's all it can do. There's no way you can do a categorisation. There is no way you can say that this particular technique is or isn't going to be torture or inhuman treatment or together with another one. Time element is important as well, it is contextual, there is no way it can be other than contextual. Trying to come up with a list is inadequate. Of course military people try and do so and the US is trying to do so right now but in the end it will be how they are applied in practice that will determine whether or not the interrogation as a whole is torture.

Question 9

It doesn't seem inconceivable to me that a distinction be drawn between a professional soldier operating under a clear chain of command and an Al Qaeda operative who is willing to strap a bomb to himself and walk into a restaurant. I was wondering on the basis of that to what extent the panel feels, particularly Victoria Brittain and Sir Nigel Rodley, that the classification of enemy combatant is valid and what the implications of that classification should be as opposed to what should be done and opposed to what should not be done?

Victoria Brittain

Well I'll just say from my small experience which is around Guantanamo and Bagram is that the invention of this non-existent category of enemy combatants was purely a convenience by the United States and if you look at, and there is a lot of documentation on the people who either still are held in Guantanamo or who have come out, 50% of them at least are nothing to do with any kind of enemy combatant, Al Qaeda, anything like that. These are people who get sold to the Americans either by Pakistani police or in some cases by Zambian police, in some cases by Gambian police, in some cases by British intelligence officers who think that they might know something about something. I mean these are people with nothing to do with any combat, nothing to do with Al Qaeda and the interrogators from Guantanamo, one of their problems has been that they found, they were interrogating these people, some of them hundreds of times and afterwards they would say I know you're an innocent man but this is my job. I have to give you another interrogation. It's the meaningless evil of Guantanamo that I really want people here to know about. All this mealy mouthed making of lists, this is alright and that's not alright is completely beside the point. It is a moral issue that hundreds of people are locked up there utterly, utterly wrongly.

[APPLAUSE]

Question 10

I would like to follow up on a question posed before by Victoria Brittain in terms of to what extent would you draw the line, I'm talking about ICRC here, to what extent can you talk about confidentiality and when do you start being part of that crime. I ask you this question because I had an interview with ICRC in Geneva in February and I was asked this question. I think I gave the wrong answer because I didn't get the job so I want to know what the right answer is, to what extent. Thank you.

Alain Aeschlimann

I can start with some publicity. We have a review, the International Review of the Red Cross and the last edition in March is on detention. I wrote an article in it that tackles in particular the issue of confidentiality. We feel we are always challenged with it and if we take Abu Ghraib, it's very interesting. Here I wish to welcome Claudio Cordonne, Senior Director at Amnesty International. They published a report in March 2004. There was no political reaction and when you read his report, everything is already in it. Then there were the disgusting photographs and then everybody was reacting and coming out of the dark. Our report that had been transmitted to the authorities was then leaked and published in some newspapers. Then we visited the place again. It was in May. There was interestingly no single question on what was the situation at this time despite all the ongoing political debates etc..

We are very aware that now a lot of things are known in the world despite this, the situation does not necessarily change.

So what we are always saying is that confidentiality is not an end for us, it's a tool. It's a way to deal with issues and to have leverage and impact. We are going out of it when some conditions are met and when the impact of our efforts and confidential representations or the quality of our dialogue with authorities is not sufficient. It takes a moment before you can say it's too much or we could be seen as not doing everything that we can and we have to speak out.

So it's always a very difficult dilemma especially at personal level because very often you see things that are not acceptable. So you make a representation, confidential representation to the authorities. The impact of this representation has to be assessed. What we need is to be sure that we did everything we could to improve the situation and we reported what we have seen or noted. Then to know if it is necessary to be public or not is another issue. We decided from the origin that our tool is to work first with confidentiality and then to mobilise other actors and finally to be public when all other efforts did not give the expected results and such a move is in the interest of the persons concerned.

Lyse Doucet

And that's not changing now?

Alain Aeschlimann

No, we are really convinced that we are complementary to others and again speak with our colleagues from Amnesty, a lot of things are public and nobody reacts at all.

Question 11

I'm a lawyer specialising in refugee law and up until the lady from the African Refugee Women's group commented earlier, I was very aware that the focus of the discussion this evening was on torture in relation to terrorism and Victoria Brittain asked why there was no moral outrage in terms of torture in the UK and I think one of the reasons is that the outrage has been eroded by the ongoing treatments of the torture survivors seeking asylum in the UK, where their credibility of their stories and their histories has been attacked and is increasingly attacked in the press, public opinion, political debates, electioneering and I wondered whether the panel had any comments on that?

Victoria Brittain

I think it's a very important point you made but I think the centre of the destruction of those people's credibility has been in the Home Office. I do a lot of what you call being a special witness when somebody is about to be deported and I am absolutely shocked when I look at what the Home Office, the grounds for deportation and for not agreeing to asylum are just baffling. These people don't even read a newspaper. Their briefings are so terrible and I think that led by David Blunkett, the Home Office put people in those jobs whose only criterion was count the numbers, get them out and if you have to destroy their credibility, you have to pretend it's not true that's fine.

But when you do the expert witness statements and it goes before the magistrate and they then almost always overturn it and the person does get asylum, it shows that there is also a backlash to that and I think that you have to keep, like I said you our colleague earlier, you have to keep raising publicly the lack of truthfulness in, not just the Home Office and not just the Daily Mail, but the general climate in which refugees are somehow turned into bad people.

When I was young, we all wanted to look after refugees. What's happened? Asylum seekers...

Lyse Doucet

Okay, thank you. You're right. Anyway that's next week's topic.

Question 12

I have a question that might be a little controversial. I want to know what role you thought race had to play. A lot of time the victims of torture are people of colour or are ethnic people and how the sort of lack of moral response in Western society as opposed to the victims being Caucasian, blonde and Christian. And just a quick comment on something Chris Brown said earlier with September 11th and the Latino and African-American cleaners, I found that statement highly offensive. I found it inappropriate and I found that, for a fact a lot of people who died on September 11th that were Latino or African-American were in high positions...

Professor Brown

That's what I said.

Question 12

No, you said cleaners. In fact African-Americans and Latinos really contribute a great deal.

Lyse Doucet

I think he mentioned that they were some of the victims. Sir Nigel would you like to...?

Sir Nigel Rodley

Yes, I mean it's simply true because of the discussion about the security dimension for obvious reasons right now. My experience as special rapporteur on torture was that there were two pretty sure criteria for identifying whether someone was detained at all and whether they had been ill treated. How poor were they and what colour were they and this in many countries and not just in the north either. It just simply is the case that people of minority backgrounds and people without means are simply more vulnerable to the kind of pressures, unprofessional law enforcement to make it sound nicer than it is, and professional law enforcement are likely to work their way with and it's just simply a common phenomenon. It's a very unfortunate phenomenon. It's a phenomenon which I railed against at the time and one just has to continue to rail against it. That doesn't mean to say that they are all innocent as the driven snow but just they're the ones who don't have the resources to get the hell out of the system.

Lyse Doucet

I'm afraid it's with great regret that I'm going to have end at least this part of our meeting today and that's partly because we want to keep to time but it's partly because we'd like you to come to the reception which is in the Senior Common room on the 5th floor of the old building.

Before we leave I just want to take the privilege of the chair to ask you all a question since you have been very good at asking questions and I'm sorry for those who don't ask, how many of you in the audience believe that there are red lines on a moral or whatever basis in which there cannot be any form of physical abuse, any forms of torture allowed in the world in which we live?

[SHOW OF HANDS]

And how many of you now believe that given the conditions, the threats, the issues that confront us all, that in fact the issues are so complex and perhaps there has to be some rethinking about how we approach these issues?

[SHOW OF HANDS]

Please do go away and think about all of them but before you do please join me in thanking Victoria Brittain, Sir Nigel Rodley...

[APPLAUSE]

Just one last comment, could you also give a thanks to Joy Whyte and Conor Gearty of the Centre for Human Rights at LSE and also to the International Committee of the Red Cross. They work very hard. Please come and join us.

[APPLAUSE]