

# JUSTICE Student Human Rights Network

Seminar, The Guardian Newsroom, 10 November 2007

## Article 3, European Convention On Human Rights

### 1. Wording

No person shall be subject to torture or to inhuman or degrading treatment.

### 2. Definitions

'Ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is, in the nature of things, relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the age, sex and state of health of the victim ...'<sup>1</sup>

'Waterboarding [is] a controversial interrogation technique that simulates drowning ... Forms of waterboarding vary but generally consist of immobilizing an individual on his or her back - head inclined downward - and pouring water over the face to induce the sensation of drowning ... in October 2006, Vice President Dick Cheney confirmed the United States had used the controversial technique to interrogate senior Al Qaeda suspects, and he said the White House did not consider waterboarding a form of torture ... Cheney confirmed waterboarding was used to interrogate Khaled Sheikh Mohammed, the senior Al Qaeda operative now being held in Guantanamo Bay, adding that the use of the technique was "a no-brainer."<sup>2</sup>

- A. Do you agree with President Cheney?
- B. What definition would you give of (a) terrorism and (b) ill-treatment?
- C. Is Mr Cheney's view sustainable as a statement of a British position?
- D. Suppose a suspect gave evidence against a British citizen as a result of waterboarding while in US custody. Could that evidence be used to obtain a conviction for murder in a UK criminal court? Could it be used in UK civil proceedings to detain a person as a suspected international terrorist?
- E. A Sudanese citizen has been convicted of murder in the UK, served a 10 year prison sentence and the UK now wants to deport him back to the Sudan. He fears that he will be killed if he is returned. Can the UK proceed?
- F. Would it make any difference if the Sudan government could be prevailed upon specifically to agree that neither he nor any other returnee would face ill-treatment?
- G. The UK government wishes failed asylum-seekers to return home. It is willing financially assist them in doing this. It is willing to provide a minimum level of financial benefits until the determination of the asylum-seekers case. Once the claim has been decided can the UK take the view that it has fulfilled its obligations and withdraw all financial benefits in the UK as an inducement to get people to go?

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<sup>1</sup> *Ireland v UK* [1979-80] 2 EHRR.

<sup>2</sup> 'Waterboarding: interrogation or torture?', CBS News, 1 November 2007.