

THE ABSOLUTE PROHIBITION:

Law, Monitoring, and the Fight Against Torture



Dmytro Yagunov

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THE ABSOLUTE PROHIBITION: LAW, MONITORING AND THE FIGHT AGAINST TORTURE

Dmytro Yagunov

Attorney at Law, D.Sc. in Political Science, Ph.D. in Public Administration,
MSSc in Criminal Justice, Associate Professor, Merited Lawyer of Ukraine

Eberhard Karls University of Tübingen (Tübingen, Germany),

Vasyl Stus Donetsk National University (Vinnytsia, Ukraine)



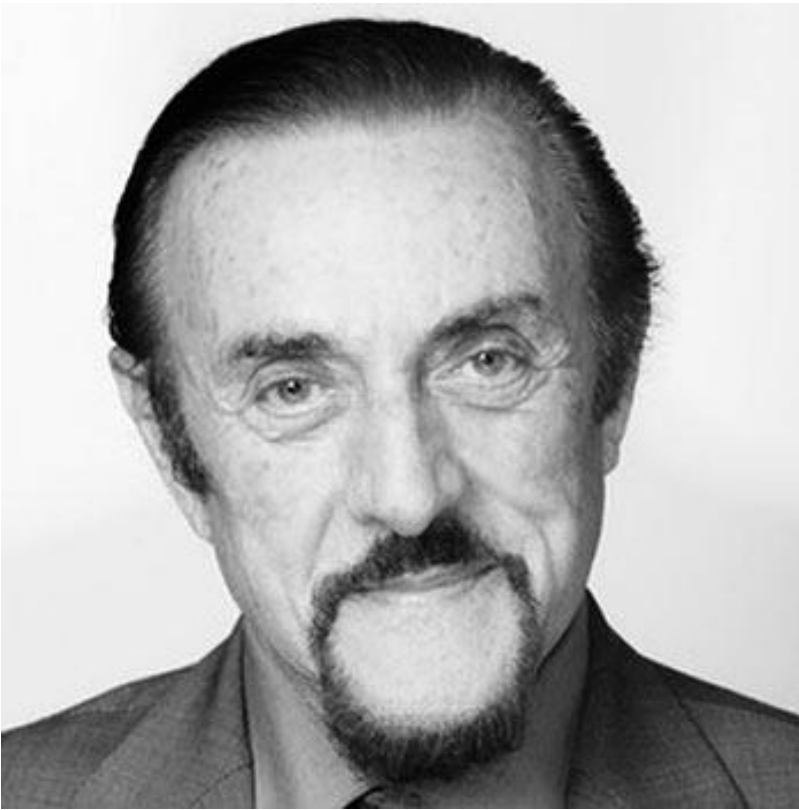
EBERHARD KARLS
UNIVERSITÄT
TÜBINGEN



The Lucifer Effect: Understanding How Good People Turn Evil

Good people can be induced, seduced, and initiated into behaving in evil ways.

They can also be led to act in irrational, stupid, self-destructive, antisocial, and mindless ways when they are immersed in 'total situations' that impact human nature in ways that challenge our sense of the stability and consistency of individual identity



CONVENTION ON HUMAN RIGHTS

ARTICLE 3

PROHIBITION OF TORTURE



*No one shall be subjected to torture or to inhuman
or degrading treatment or punishment.*

Article 3

PROHIBITION OF TORTURE

**No one shall be subjected to
torture or to inhuman or
degrading treatment or
punishment**



ABSOLUTE PROHIBITION

- Article 3 enshrines a fundamental value of democratic society.
- It provides a categorical prohibition of torture and inhuman or degrading treatment or punishment.

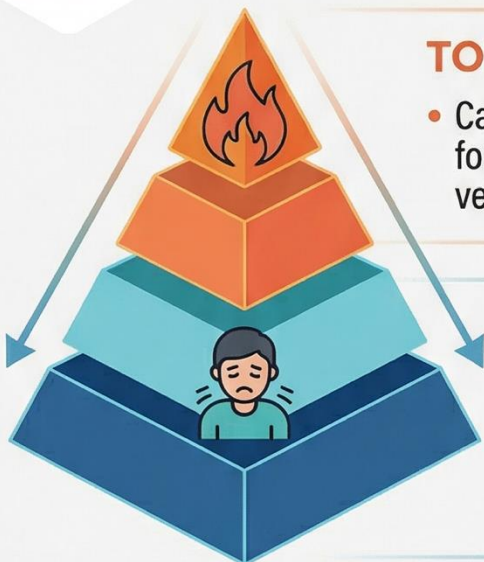


NO EXCEPTIONS

Applies regardless of the circumstances of the victim's conduct.



HIERARCHY OF ILL-TREATMENT



TORTURE

- Carries a "special stigma" reserved for inhuman treatment causing very severe and cruel suffering.

INHUMAN OR DEGRADING TREATMENT

- Prohibited conduct that does not meet the specific threshold of torture.

- **Absolute Prohibition:** Article 3 enshrines a fundamental value of democratic society. It provides a **categorical prohibition** of torture and inhuman or degrading treatment or punishment
- **No Exceptions:** Applies regardless of the circumstances or the victim's conduct
- **Hierarchy of Ill-Treatment:**
 - **Torture:** Carries a "special stigma" reserved for inhuman treatment causing **very severe and cruel suffering**
 - **Inhuman or Degrading Treatment:** Prohibited conduct that does not meet the specific threshold of torture

GUIDELINES ON TREATMENT AND ARTICLE 3 PROVISIONS

CORE PRINCIPLE

PRACTICAL AND EFFECTIVE GUARANTEES

- Provisions must be interpreted and applied to ensure protections are **PRACTICAL AND EFFECTIVE**, not theoretical or illusory.



ARTICLE 3:

ABSOLUTE PROHIBITION

- Article 3 enshrines a fundamental value of democratic society.
- It provides a **CATEGORICAL PROHIBITION** of torture and inhuman or degrading treatment or punishment.

NO EXCEPTIONS

Applies regardless of the circumstances or the victim's conduct.



HIERARCHY OF ILL-TREATMENT



TORTURE

Carries a "special stigma" reserved for inhuman treatment causing **VERY** and **CRUEL SUFFERING**.

INHUMAN OR DEGRADING TREATMENT

Prohibited conduct that does not meet the specific threshold of torture.

IRELAND v. THE UNITED KINGDOM

European Court of Human Rights, 1978 (No. 5310/71)

5 TECHNIQUES

HOODING

WALL-STANDING

SLEEP DEPRIVATION

WHITE
NOISE

SUBJECTION
TO DIET

THE HOODED MEN

BRITISH SECURITY FORCES

CRIMINAL INQUIRY

NORTHERN IRELAND

EMERGENCY LEGISLATION

INHUMAN AND DEGRADING

LANDMARK RULING:
INTERROGATION TECHNIQUES
IN NORTHERN IRELAND

NOT TORTURE

The 5 techniques... were 'inhuman and degrading' but not torture

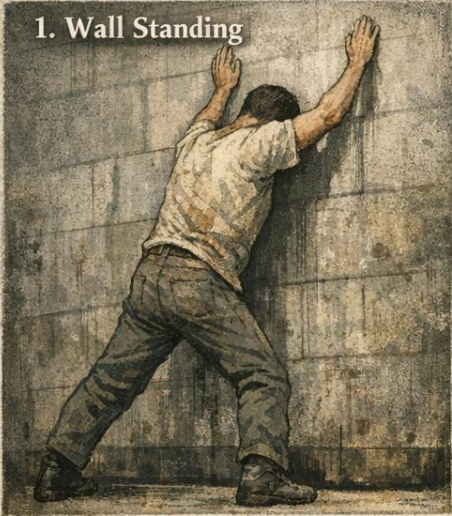
A case regarding interrogation techniques used by British security forces in Northern Ireland in 1971.

Ireland v. the UK

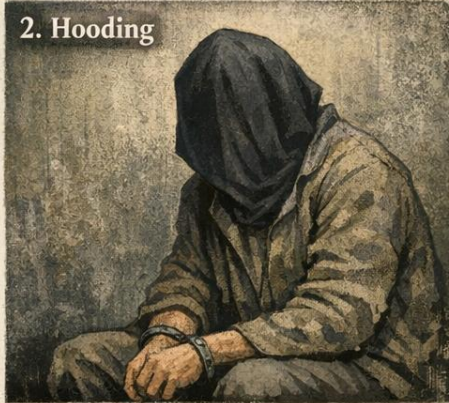
Distinguishing Between Torture and Inhuman Treatment

The "Five Techniques"

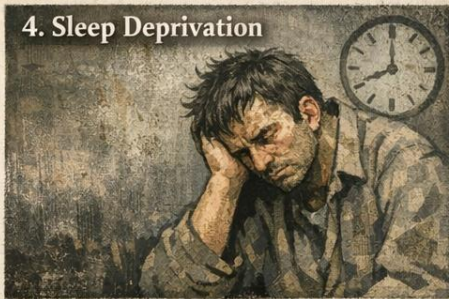
1. Wall Standing



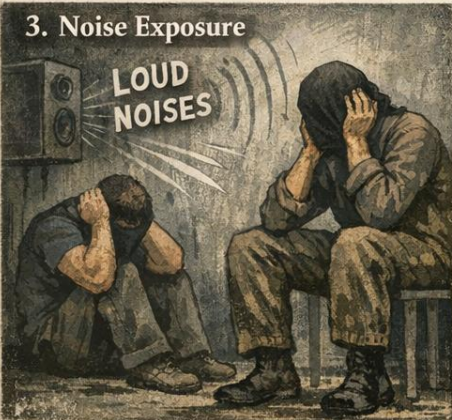
2. Hooding



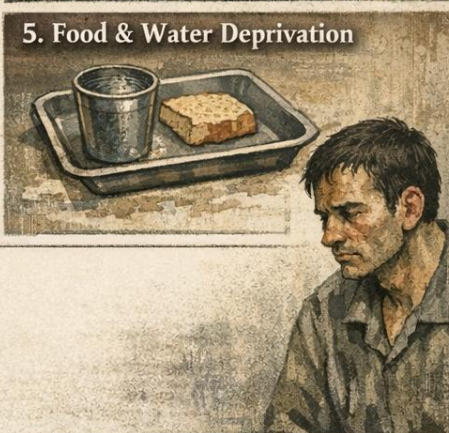
4. Sleep Deprivation



3. Noise Exposure



5. Food & Water Deprivation



DISTINGUISHING TORTURE VS. INHUMAN TREATMENT

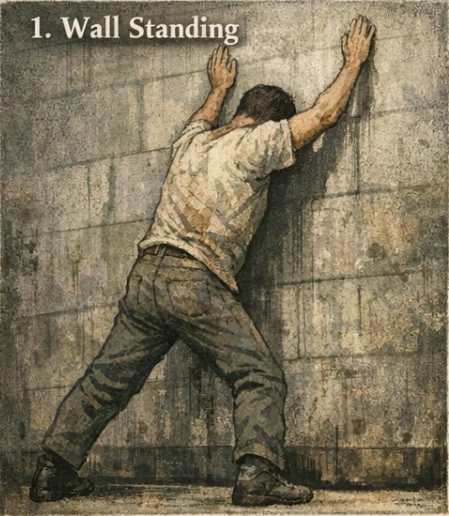
- **The Threshold of Severity:** This landmark case established that while certain treatments are prohibited, they must reach a specific level of "severity" to be classified as torture
- **The "Five Techniques":** The court examined a combination of interrogation methods used to disorient and break the will of detainees:
- **The Ruling:** The Court held that these techniques constituted **inhuman and degrading treatment**, but did not cross the threshold into **torture**, as they did not cause suffering of the "particular intensity and cruelty" required for that definition

Ireland v. the UK

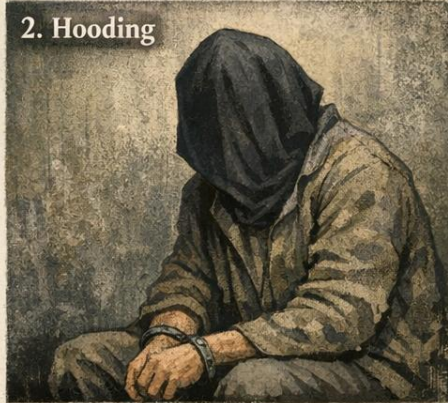
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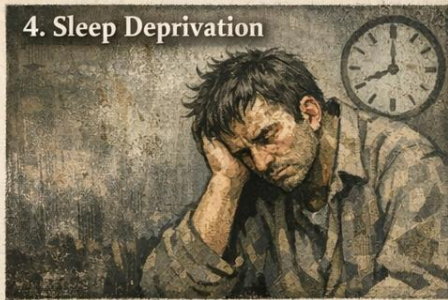
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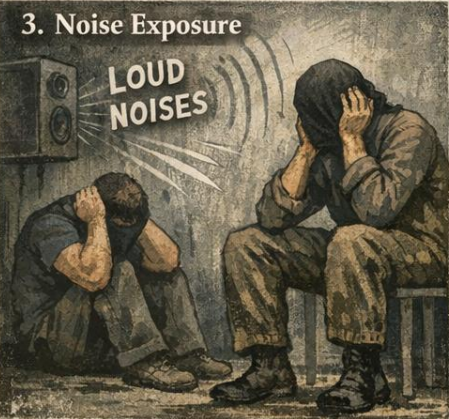
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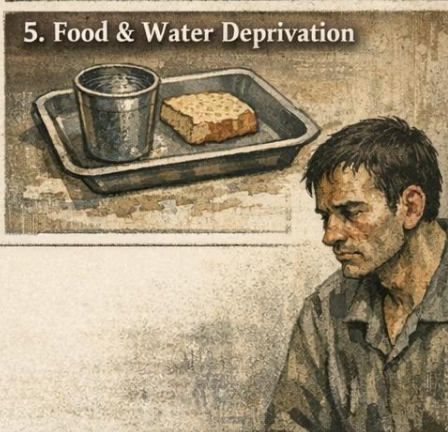
4. Sleep Deprivation



3. Noise Exposure



5. Food & Water Deprivation



- **The Verdict: Inhuman and Degrading Treatment**
- **Cumulative Effect:** The "Five Techniques" were applied **in combination**, with premeditation, and over many consecutive hours
- **Threshold of Inhuman Treatment:**
 - Caused **severe physical and mental suffering**, even in the absence of lasting bodily harm.
 - Led to **acute mental disorders** during the interrogation process.
 - Identified by the Court as falling strictly within the category of **inhuman treatment** under Article 3.
- **Degrading Nature of the Acts:**
 - Methods were designed to instill feelings of **fear, suffering, and worthlessness**
 - Aimed to cause **humiliation** and the total erosion of the victim's physical and moral resilience
- **The Outcome:** The Court concluded these acts were **inhuman and degrading** but stopped short of labelling them as "torture" (a distinction that remains a point of significant legal debate today)

The Minimum Threshold of Severity

The Article 3 Gateway

A Relative Assessment: The threshold is not fixed

Primary Assessment Factors:

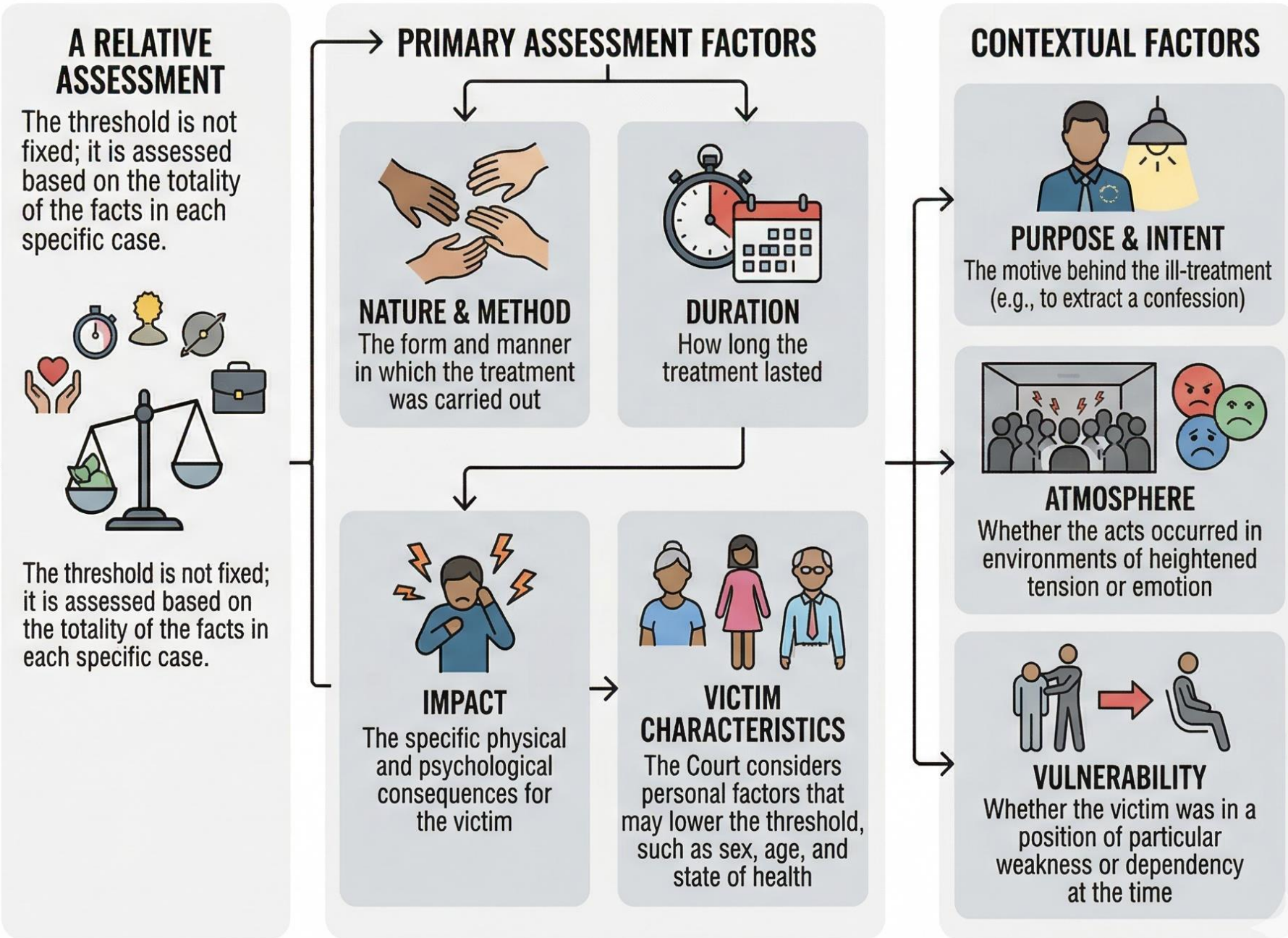
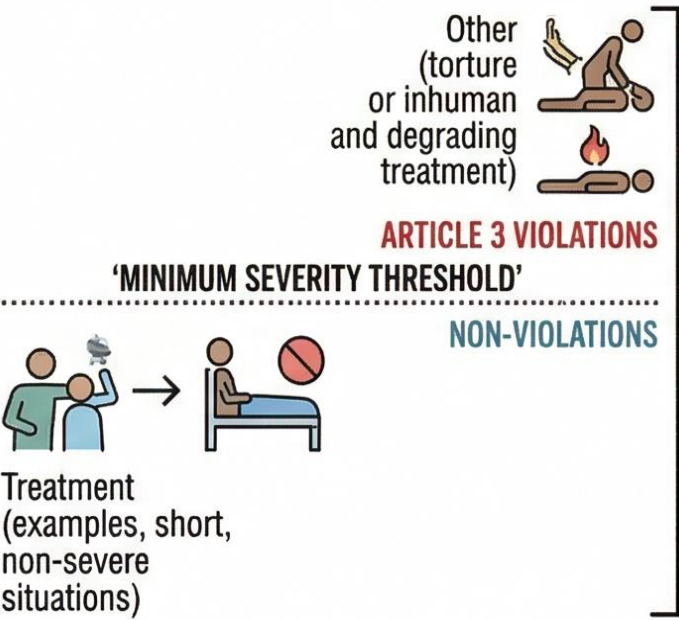
Nature & Method	Victim Characteristics	Contextual Factors
		
Duration, Impact	Sex, Age, State of Health	Purpose & Intent, Atmosphere, Vulnerability

MINIMUM THRESHOLD OF SEVERITY

- **The "Article 3 Gateway":** For treatment to be legally considered a violation, it must reach a **minimum level of severity**. Conduct falling below this threshold does not trigger Article 3 protections
- **A Relative Assessment:** The threshold is not fixed; it is assessed based on the **totality of the facts** in each specific case
- **Primary Assessment Factors:**
 - **Nature & Method:** The form and manner in which the treatment was carried out
 - **Duration:** How long the treatment lasted
 - **Impact:** The specific physical and psychological consequences for the victim
 - **Victim Characteristics:** The Court considers personal factors that may lower the threshold, such as **sex, age, and state of health**
 - **Contextual Factors:**
 - **Purpose & Intent:** The motive behind the ill-treatment (e.g., to extract a confession)
 - **Atmosphere:** Whether the acts occurred in environments of heightened tension or emotion
 - **Vulnerability:** Whether the victim was in a position of particular weakness or dependency at the time

THE 'ARTICLE 3 GATEWAY': MINIMUM SEVERITY THRESHOLD

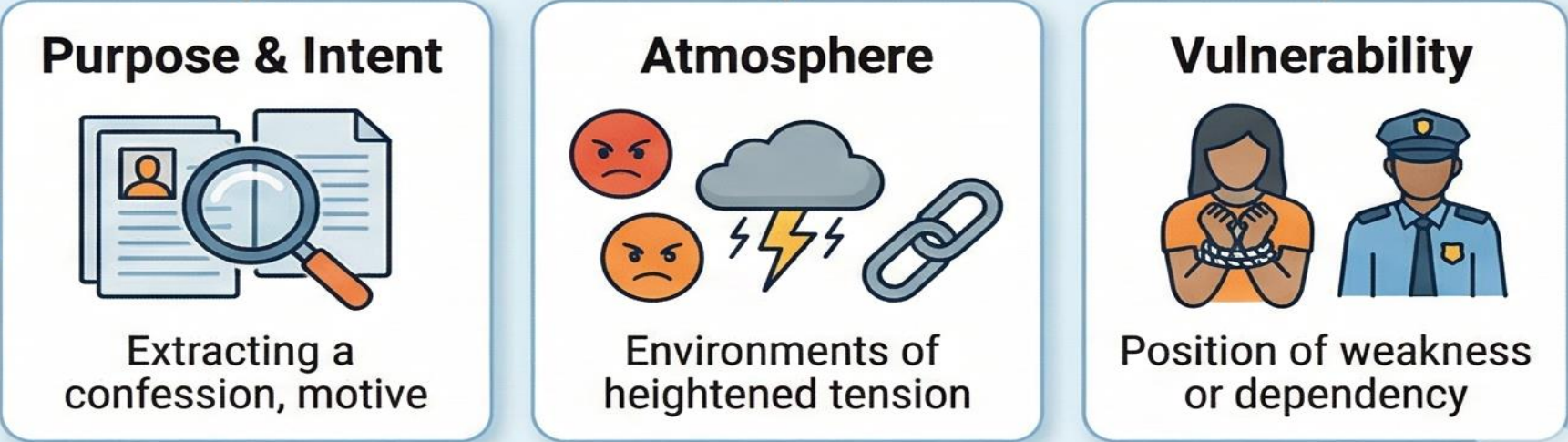
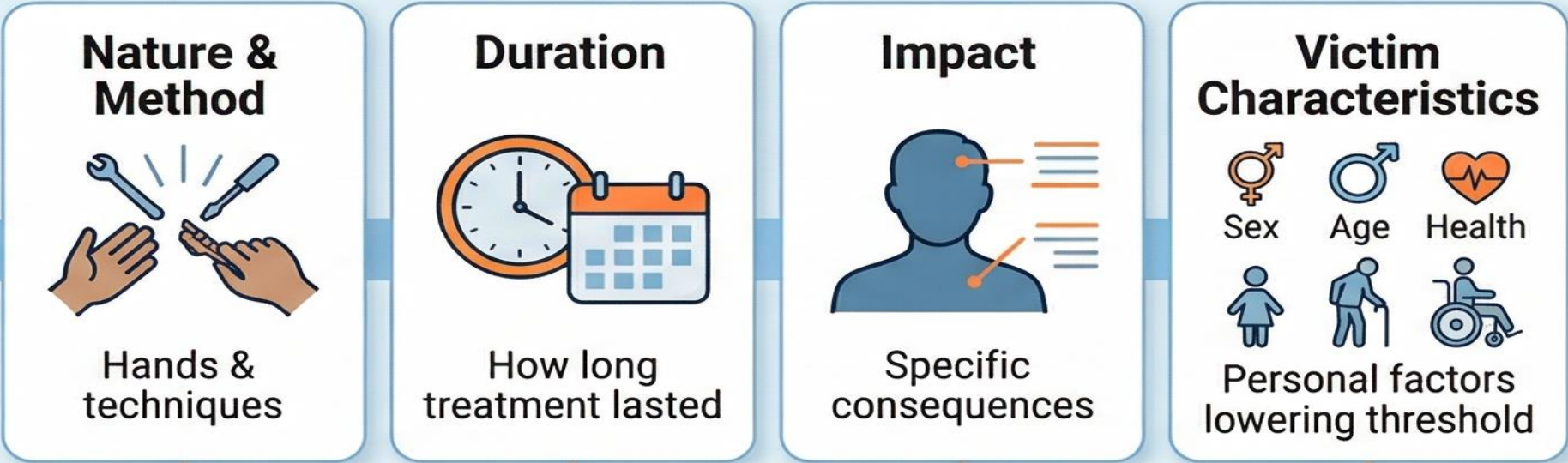
For treatment to be legally considered a violation, it must reach a minimum level of severity. Conduct falling below this threshold does not trigger Article 3 protections.



A Relative Assessment

Threshold is assessed based on the totality of facts in each specific case.

PRIMARY ASSESSMENT FACTORS



CONTEXTUAL FACTORS

The Element of Publicity in Severity Assessment



THE ELEMENT OF PUBLICITY IN SEVERITY ASSESSMENT

- **Publicity as an Aggravating Factor:** The fact that treatment or punishment occurs in **public** can increase its severity, potentially pushing it over the Article 3 threshold due to the added social shame
- **The Subjective Dimension:** While public exposure is significant, it is not a requirement for a violation. Treatment can be "*degrading*" even if it occurs in private
- **Self-Perception of the Victim:** The Court recognises that humiliation can be internal; treatment is degrading if it causes the victim to feel **humiliated in their own eyes**, regardless of whether others witnessed it
- **Focus on Human Dignity:** The core of the assessment is the impact on the individual's **physical and moral integrity**, not just their external reputation

ASSESSING DEGRADING TREATMENT: PUBLICITY, SUBJECTIVITY, AND HUMAN DIGNITY

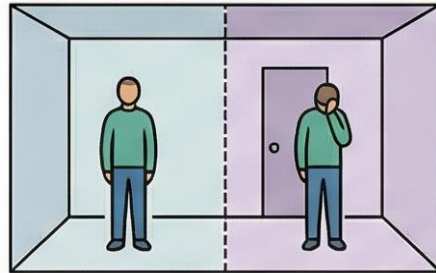
PUBLICITY AS AN AGGRAVATING FACTOR



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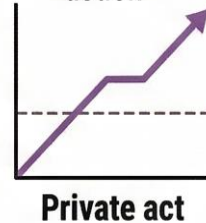
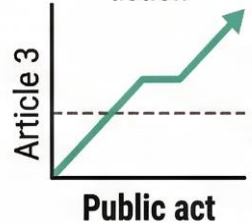


THE SUBJECTIVE DIMENSION



Public act
with same
action

Private act
with same
action



While public exposure is significant, it is not a requirement for a violation. Treatment can be 'degrading' even if it occurs in private.

PUBLIC



PRIVATE



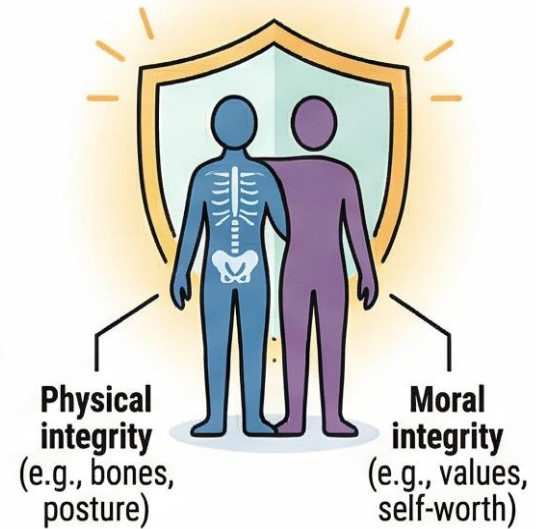
SELF-PERCEPTION OF THE VICTIM



The Court recognises that humiliation can be internal; treatment is degrading if it causes the victim to feel humiliated in their own eyes, regardless of whether others witnessed it.



FOCUS ON HUMAN DIGNITY



The core of the assessment is the impact on the individual's physical and moral integrity, not just their external reputation.

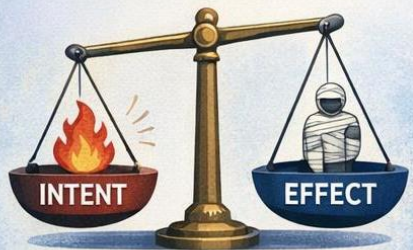


The Role of *Intent* in Assessing Severity

Intent vs. Effect

Malicious Intent

Accidental Harm



— Both Must Be Weighed —

Objective Suffering

Minor Pain

Bruise or Cut



Moderate Harm

Broken Arm

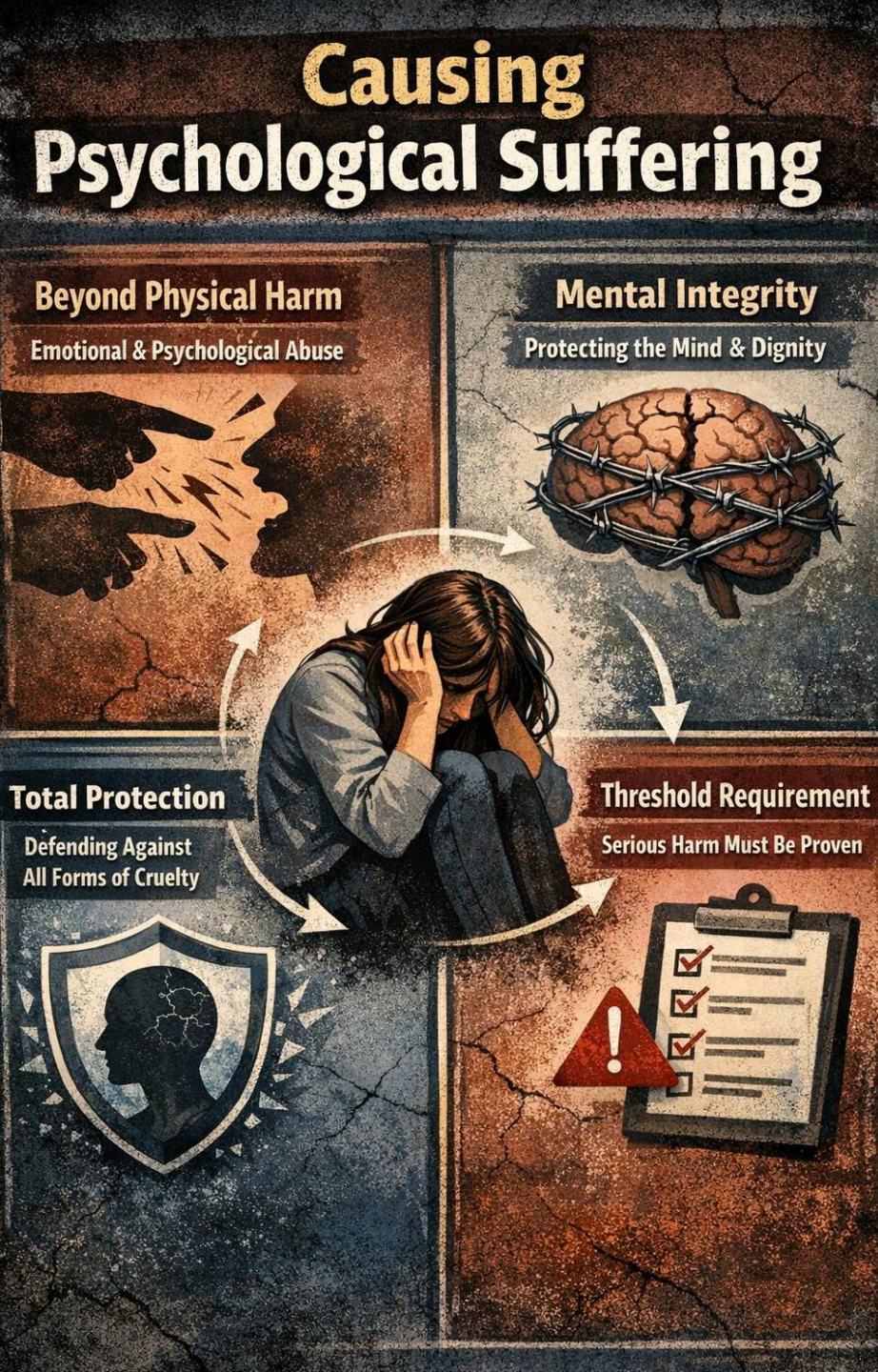


Severe Injury

Critical Condition



- **Primary Consideration:** When determining if treatment is "degrading," the Court evaluates whether the **explicit purpose** was to humiliate or debase the individual
- **Incompatibility with Article 3:** The assessment focuses on whether the treatment's effects adversely affected the person in a way that contradicts the core guarantees of human dignity
- **Intent vs. Effect:** While a malicious motive is a strong indicator of a violation, it is **not a mandatory requirement**
 - The **absence of an intention** to humiliate does not automatically rule out a violation of Article 3
- **Objective Suffering:** If the actual physical or mental impact on the victim reaches the minimum threshold of severity, a violation can be found regardless of whether the authorities "intended" to be cruel



PSYCHOLOGICAL SUFFERING

- **Beyond Physical Harm:** The scope of Article 3 is not limited to physical violence or bodily injury
- **Mental Integrity:** The Convention protects the **psychological well-being** of individuals, recognizing that mental suffering can be just as severe as physical pain.
- **Total Protection:** To be "practical and effective," the prohibition must cover any state-sponsored conduct that results in **severe mental distress, anguish, or psychological breakdown**
- **Threshold Requirement:** As with physical acts, psychological treatment must still reach the **minimum threshold of severity** to be classified as inhuman or degrading

Use of Force During Escort

Prohibition of Excessive Force



Officers must avoid unnecessary or overly aggressive actions.

Threshold for Violation



Force is deemed excessive if it is unreasonable or unnecessary.

The Burden of Proof



It must be proven that the force used was improper.

Maintaining Dignity



Treat detainees with respect and uphold their rights.

USE OF FORCE DURING ESCORT

- **Prohibition of Excessive Force:** Any use of physical force by state agents while escorting a prisoner must be strictly necessary and proportionate
- **Threshold for Violation:** If the force used is deemed **excessive** or not necessitated by the prisoner's own conduct, it constitutes a violation of **Article 3**
- **The Burden of Proof:** When an individual is taken into state custody in good health but is found to be injured at the time of release or during transit, the burden lies on the State to provide a plausible explanation for those injuries
- **Maintaining Dignity:** Even where a degree of force is required (e.g., due to resistance), it must not cross into **inhuman or degrading treatment** by seeking to humiliate the prisoner or cause unnecessary suffering

SEARCHES

A search carried out in accordance with the law, with due respect for human dignity and for a legitimate purpose, does not contravene Article 3 of the Convention.



SEARCHES AND HUMAN DIGNITY

- **General Rule:** A search of a person is not a per se violation of Article 3. It is a common procedural necessity in legal and security contexts
- **Criteria for Compliance:** To remain compatible with the Convention, a search must meet three specific conditions:
 - **Legality:** It must be carried out in strict accordance with the law.
 - **Legitimate Purpose:** The search must serve a valid objective (e.g., prison security or the prevention of crime).
 - **Respect for Dignity:** It must be conducted in a manner that respects the individual's human dignity
- **Violation Threshold:** A search may contravene Article 3 if the **manner** in which it is executed is unnecessary, humiliating, or intended to debase the individual (e.g., invasive strip searches conducted without adequate justification or in the presence of the opposite sex)

CRITERIA FOR COMPLIANCE: TO REMAIN COMPATIBLE WITH THE CONVENTION, A SEARCH MUST MEET THREE SPECIFIC CONDITIONS:



• **LEGALITY:**

IT MUST BE CARRIED OUT IN STRICT ACCORDANCE WITH THE LAW.



• **LEGITIMATE PURPOSE:**

THE SEARCH MUST SERVE A VALID OBJECTIVE (e.g., prison security or the prevention of crime).



• **RESPECT FOR DIGNITY:**

IT MUST BE CONDUCTED IN A MANNER THAT RESPECTS THE INDIVIDUAL'S HUMAN DIGNITY.



PROVISIONS REGARDING STRIP SEARCHES IN PRISONS



NECESSITY VS. JUSTIFICATION



- Strip searches are considered coercive and potentially humiliating



PLAUSIBLE JUSTIFICATION

- A lack of justification may violate Article 8 or Article 3



PROTECTION OF DIGNITY

Justified by specific circumstances and conducted in an appropriate manner



MANDATORY PROCEDURAL SAFEGUARDS

- Non-Humiliating Procedure:** Search must not be designed to degrade the individual
- Gender Separation:** Presence of persons of the opposite sex during the search is strictly prohibited



UNJUSTIFIED SEARCH

An inmate is ordered to undress before a group of officers without compelling security reasons



PROPORTIONALITY

Prison security needs must be balanced against the individual's right to be free from degrading treatment



SEARCHES INVOLVING STRIPPING

- Necessity vs. Justification:** Strip searches are considered **coercive and potentially humiliating**
 - Plausible Justification:** The State must provide clear reasons for the search; a lack of justification may violate **Article 8** or **Article 3**
- Protection of Dignity:** Stripping inherently infringes upon personal dignity. It is only permissible when justified by **specific circumstances** and conducted in an **appropriate manner**
- Mandatory Procedural Safeguards:**
 - Non-Humiliating Procedure:** The search must not be designed to degrade the individual
 - Gender Separation:** The presence of persons of the **opposite sex** during the search is strictly prohibited
- Unjustified Search:** A violation occurs if an inmate is ordered to undress before a group of officers without **compelling security reasons** tailored to the individual's personality and the specific context
- Proportionality:** Prison security needs must be balanced against the individual's right to be free from degrading treatment



ARTICLE 3 VIOLATIONS: ASSESSING DETENTION CONDITIONS



FAILURE OF JUSTIFICATION

- While authorities may have a legitimate reason to seize clothing (e.g., **FORENSIC EVIDENCE**).



This does **NOT** justify leaving a detainee **without adequate clothing** for an **EXTENDED PERIOD**.



THE THRESHOLD OF DEGRADATION



- Keeping an individual in their **underwear while handcuffed** for a **significant duration** (e.g., 2.5 hours).



2.5 HOURS



DEGRADATION

AGGRAVATING CONDITIONS

- The humiliation of being exposed and restrained simultaneously.



FORCED DETENTION WITHOUT CLOTHING

- Failure of Justification:** While authorities may have a legitimate reason to seize clothing (e.g., to gather forensic evidence), this does **not** justify leaving a detainee without adequate clothing for an extended period
- The Threshold of Degradation:** Keeping an individual in their underwear while handcuffed for a significant duration (e.g., 2.5 hours) is considered a violation of **Article 3**
- Aggravating Conditions:** The humiliation of being exposed and restrained simultaneously.
 - Subsequent placement in inappropriate conditions, such as a minor being held in a cell with adults



TOTAL SENSORY ISOLATION

- **The Nature of the Violation:** Complete sensory isolation, when combined with total social isolation, is recognised as a profound threat to the individual
- **Impact on Identity:** This treatment has the capacity to **destroy a person's identity** and mental integrity
- **Legal Classification:** It is categorically classified as a form of **inhuman treatment** under Article 3
- **Absolute Prohibition:** Unlike some other restrictive measures, total sensory isolation **cannot be justified** by the State for any reason whatsoever — including high-level security concerns or the gravity of the offense
- **Distinction from Solitary Confinement:** While regular solitary confinement (social isolation) is subject to strict necessity tests, the addition of **sensory deprivation** (removal of light, sound, and environmental stimuli) crosses an absolute threshold into prohibited ill-treatment

ARTICLE 3

TORTURE IS FORBIDDEN



- **Severe Physical Violence:**
 - **Repeated beatings** with instruments such as sticks or wooden planks (e.g., resulting in multiple rib fractures)
 - Assaults by police officers using **rifle butts**
- **Prolonged Abuse:**
 - **Systematic and extremely serious** physical and mental ill-treatment spanning several years.
 - Patterns of abuse that demonstrate a calculated intent to cause suffering over a long duration
- **Sexual Violence:**
 - **Rape** and systematic sexual abuse.
 - Combined physical and sexual trauma characterised by extreme severity
- **Failure of Care:**
 - The **simultaneous failure to provide medical assistance** following state-inflicted violence is a significant aggravating factor that heightens the level of inhuman treatment
- **Legal Classification:** These acts typically cross the threshold from "inhuman treatment" into **torture**, given the intensity of the suffering and the deliberate nature of the cruelty involved

OVERVIEW OF SEVERE HUMAN RIGHTS ABUSES AND TORTURE CRITERIA

• Severe Physical Violence:

- Repeated beatings with instruments such as sticks or wooden planks

• Prolonged Abuse:

- Systematic and extremely serious physical and mental ill-treatment spanning several years.
- Patterns of abuse that demonstrate a calculated intent to cause suffering over a long duration

• Rape and systematic sexual abuse.

- Combined physical and sexual trauma characterised by extreme severity

• Failure of Care:

- The simultaneous failure to provide medical assistance following state-inflicted violence is a significant aggravating factor that heightens the level of inhuman treatment

Legal Classification:

- These acts typically cross the threshold from “inhuman treatment” into torture, given the intensity of the suffering and the deliberate nature of the cruelty involved

POLICE USE OF PEPPER SPRAY & TEAR GAS



PEPPER SPRAY AND TEAR GAS

- **Classification:** Pepper spray used for crowd control or dispersal is not classified as a toxic gas under the Chemical Weapons Convention
- **Potential Health Effects:** Despite its classification, exposure can cause significant physiological distress
- **Evidence and the Article 3 Threshold:** Allegations of Article 3 violations must be **substantiated by evidence**
- **Operational Restrictions:**
 - **Standard Equipment:** Tear gas canisters should **not** be part of the standard equipment for staff within police stations.
 - **Enclosed Spaces:** Due to its potentially dangerous effects and the risk of intensified physical harm, the use of tear gas in **enclosed spaces is prohibited**

STRICT NECESSITY

- Resisting Arrest
- Threat of Harm
- Destroying Evidence

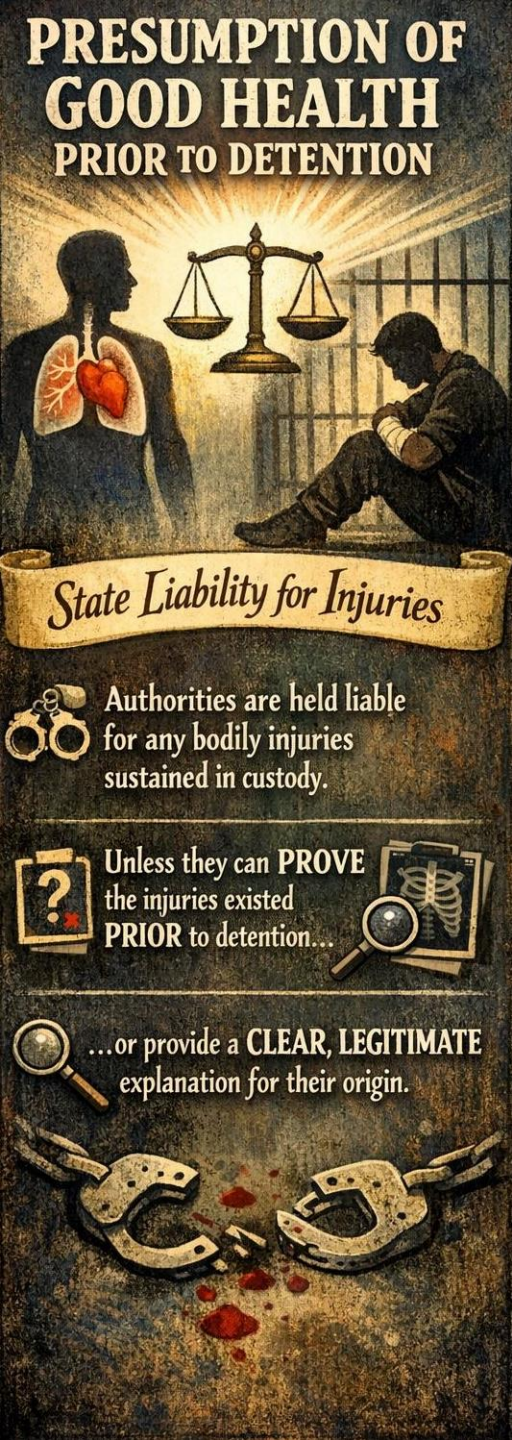
EXCESSIVE FORCE

- Unjustified Violence
- Violation of Dignity
- Abuse of Power



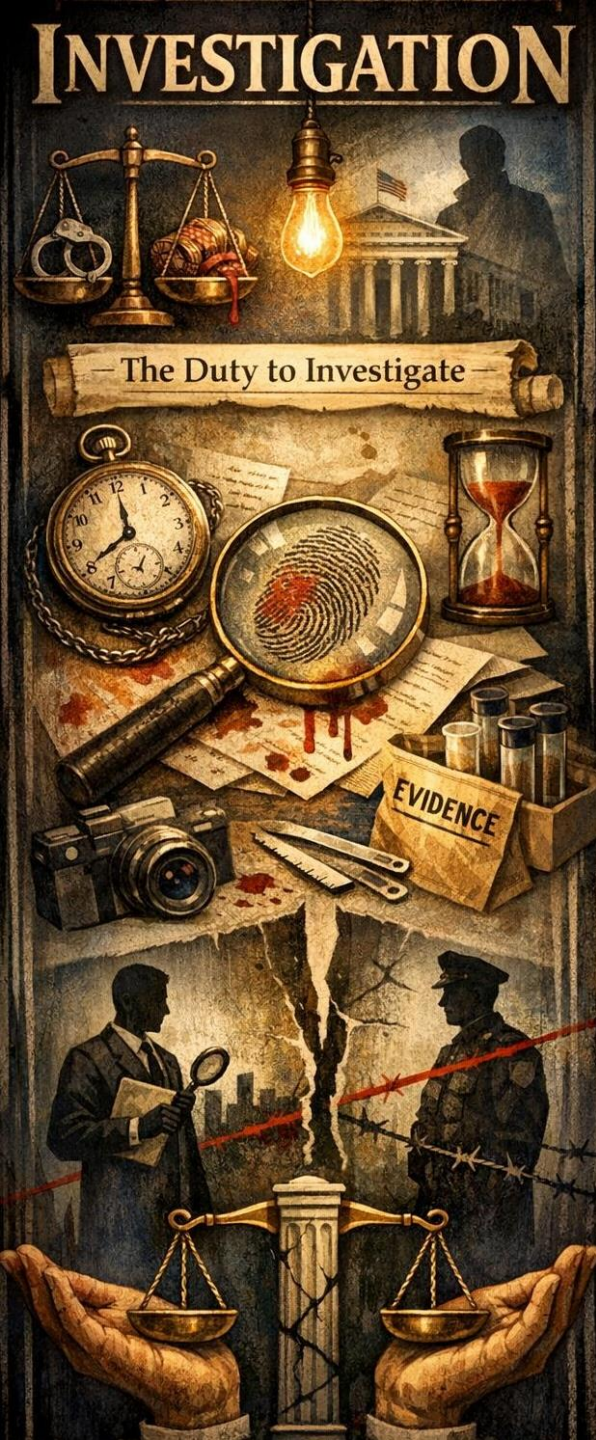
USE OF FORCE DURING ARREST

- **The Principle of Strict Necessity:** Article 3 does not inherently prohibit physical force during an arrest, but it mandates that force be used **only when strictly necessary** and never in an excessive manner
- **Affront to Human Dignity:** Any force applied by State officials that is not justified by the individual's actual behaviour is considered an affront to human dignity and a violation of Article 3
- **Justification Criteria:** To determine if force is necessary, the Court looks for specific grounds, such as whether the person:
 - Attempted to **resist arrest** or **escape** custody
 - Posed a threat to **cause injury or harm** to themselves or others
 - Attempted to **destroy evidence**
- **Impact of Confrontation:** If State agents resort to force that was not provoked or necessitated by the person's own actions, the threshold of a Convention violation is reached
- **Burden of Accountability:** The State must demonstrate that the level of force used was proportionate to the resistance encountered; any "gratuitous" force (force for the sake of force) is strictly prohibited



PRESUMPTION OF GOOD HEALTH PRIOR TO DETENTION

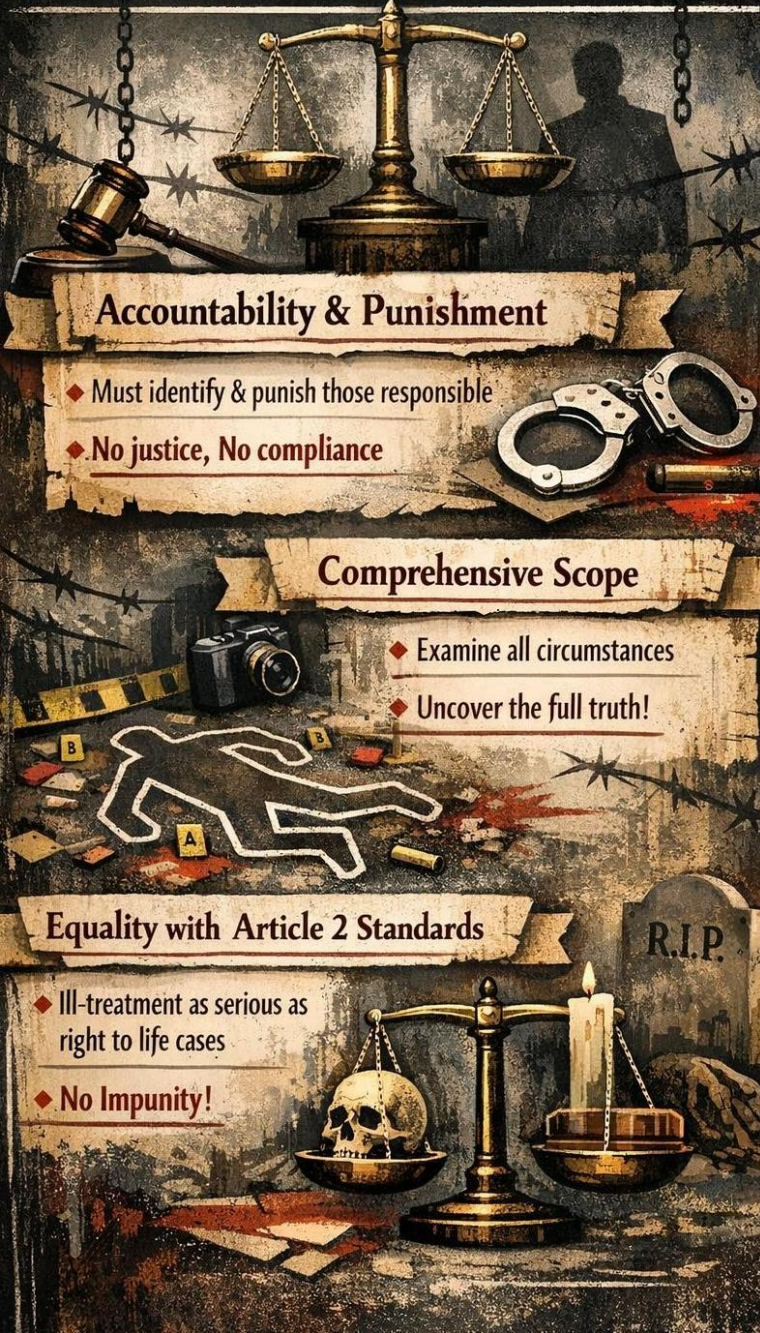
- **State Liability for Injuries:** National authorities are held liable for any bodily injuries a person sustains while in custody unless they can prove the injuries existed **prior to detention** or provide a clear, legitimate explanation for their origin
- **The Burden of Proof:** If a person is documented to be in **good health** at the time of arrest but presents with injuries upon release, the legal burden shifts entirely to the State
- **Protection Against Ill-Treatment:** This presumption serves as a critical safeguard to prevent "behind-closed-doors" abuse. It ensures that the State is held accountable for the physical integrity of those who are under its total control and unable to provide their own witnesses
- **The Reversal of Onus:** In standard legal cases, the victim usually proves the harm; however, in detention cases, the "onus of proof" is reversed because the State holds all the information regarding what transpired during the period of deprivation of liberty



INVESTIGATION

- **The Duty to Investigate:** Article 3 imposes a procedural obligation on State authorities to conduct an **effective official investigation** into credible allegations of ill-treatment
 - This duty applies even if the treatment was inflicted by **private individuals** rather than State agents
- **Promptness and Thoroughness:**
 - Investigations must be initiated quickly and conducted with diligence
 - Authorities must make a **serious attempt** to establish the facts, avoiding "hasty or unsubstantiated conclusions."
 - **Evidence Collection:** Officials must take all reasonable steps to secure evidence, including forensic examinations and witness statements
- **Independence of the Investigation:**
 - The investigating body must be **independent** from those involved in the incident
 - Independence must be both **hierarchical/institutional** and **practical** (no functional links between the investigator and the accused)

INVESTIGATION



INVESTIGATION

- **Accountability and Punishment:**

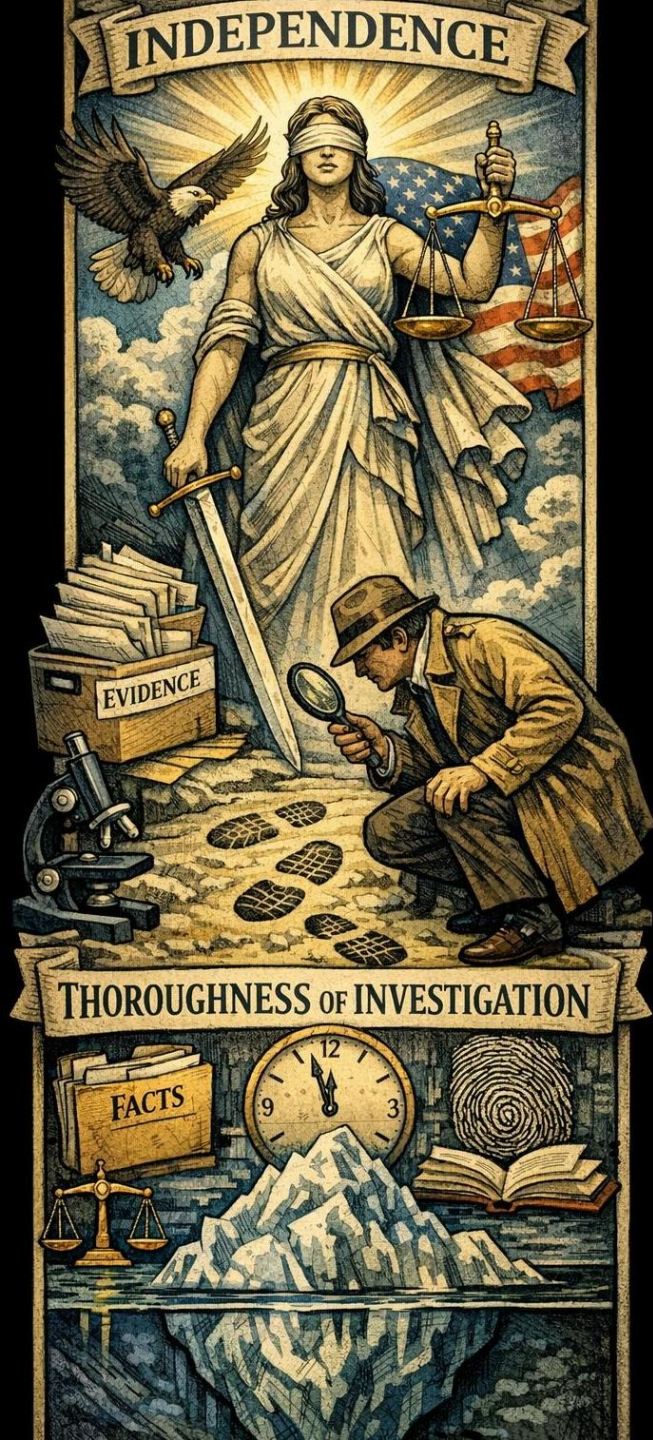
- For an investigation to be "effective," it must be capable of **identifying and punishing** those responsible
- A process that cannot lead to a criminal sanction for a valid claim fails the Article 3 standard

- **Comprehensive Scope:**

- The inquiry must be broad enough to examine not just the direct use of force, but **all related circumstances** and surrounding context.
- Any shortcoming that undermines the ability to establish the cause of injury or identify the perpetrator risks a breach of the "effectiveness" requirement

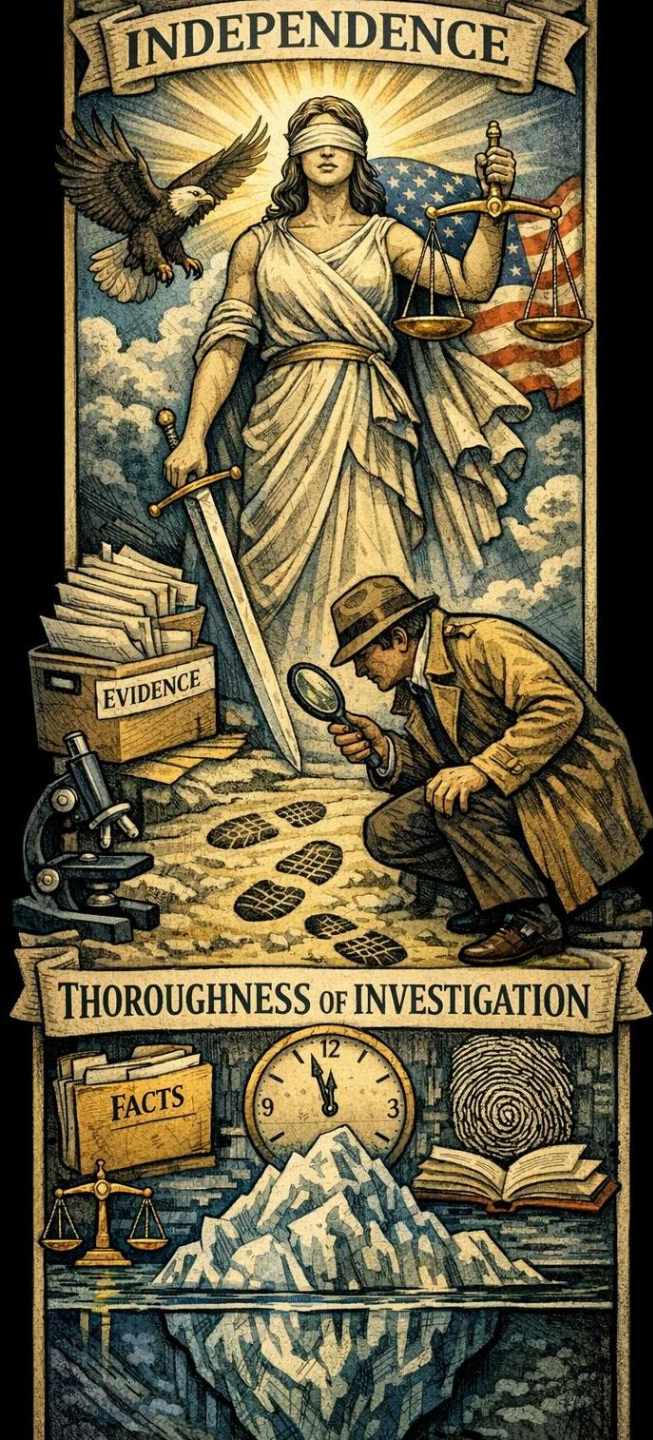
- **Equality with Article 2 Standards:**

- Where exceptionally severe ill-treatment is alleged, the procedural requirements are as stringent as those for **Article 2** investigations, emphasizing the State's heightened duty to ensure justice and prevent impunity



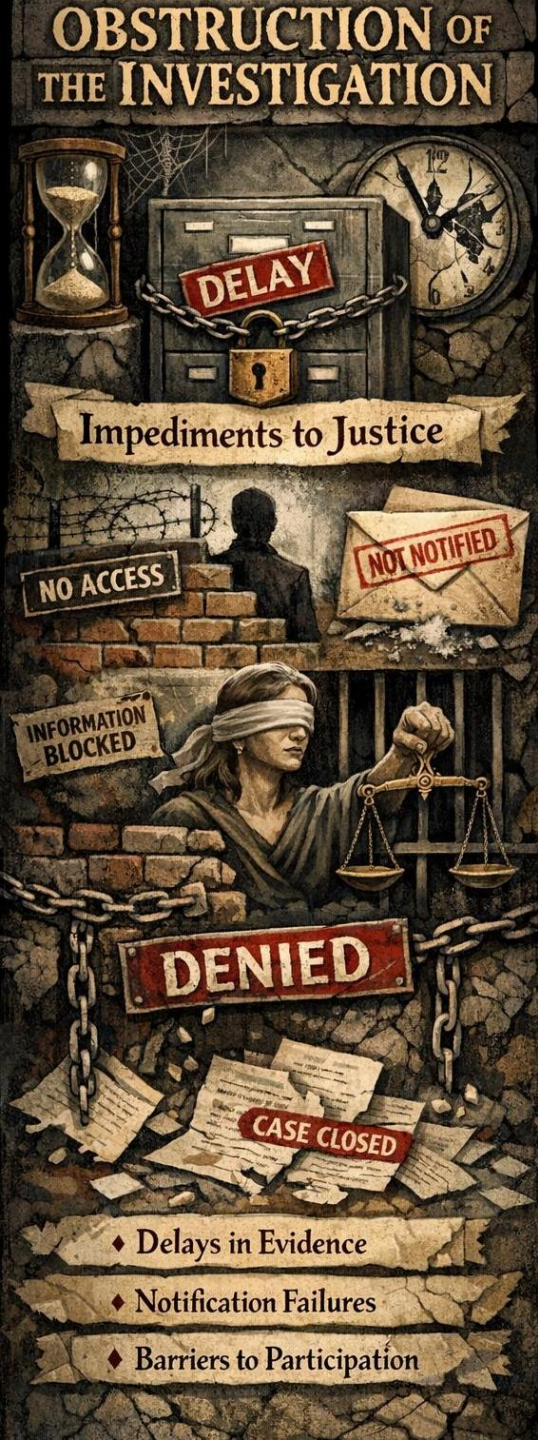
INDEPENDENCE AND THOROUGHNESS

- **Prevention of Impunity:** National authorities are strictly prohibited from creating an impression that they are willing to allow ill-treatment to go unpunished. Maintaining the **rule of law** requires a visible commitment to accountability
- **Core Standards of Effectiveness:** For an investigation to meet Article 3 requirements, it must adhere to several "minimum standards":
 - **Independence & Impartiality:** The primary and most critical requirement.
 - **Thoroughness:** A comprehensive effort to gather all relevant evidence.
 - **Public Scrutiny:** The process must be transparent enough to maintain public confidence.
 - **Diligence & Promptness:** Authorities must act with "exemplary" speed to prevent the loss of evidence or the appearance of collusion.
- **Definition of Independence:**
 - **Institutional:** No hierarchical or institutional links between the investigators and the accused (especially the executive branch).
 - **Practical:** The investigation must be independent in its actual operation and decision-making, not just on paper



INDEPENDENCE AND THOROUGHNESS

- **The Requirement of a Reasoned Decision:**
 - Investigations must conclude with a **reasoned decision**
 - This serves to reassure the public that the law is being upheld and that the facts have been scrutinised objectively
- **Inadequacy of Internal Reviews:**
 - Purely **internal investigations** or standard pre-trial inquiries conducted by the same police department/agency being accused do **not** meet the Convention's standards for independence
- **Duty of Particular Diligence:**
 - When authorities rely on a "defense" (e.g., claiming an applicant's injuries were caused by an accidental fall), they must exercise **heightened diligence**
 - This includes meticulous scene inspections and precise forensic mapping to verify if the official version of events is physically possible



OBSTRUCTION OF THE INVESTIGATION

- **Condemnation of Obstruction:** The ECtHR strictly condemns investigative methods that effectively act as an **obstruction of justice** rather than a search for the truth
- **Tactics of Impediment:**
 - **Delays in Evidence:** Failure to gather evidence promptly to allow it to degrade or disappear
 - **Notification Failures:** Significant delays in informing the applicant of decisions
 - **Barriers to Participation:** Preventing the applicant from accessing information or challenging the results of investigative checks
- **Bias Toward Exoneration:** A violation occurs when the authorities' approach is clearly designed to **exonerate the officers under suspicion** rather than establishing the true circumstances of how injuries were inflicted
- **Lack of Accountability:** When no "serious efforts" are made to investigate and no explanation is provided for procedural delays, the State fails its duty to ensure the protection of individuals from state-sponsored violence

• Requirement for Promptness



A rapid response is essential to maintain public confidence in the rule of law.

• The "Serious Attempt" Standard



Authorities are legally obligated to make a genuine effort to uncover the truth.

They are strictly prohibited from:

Relying on hasty or unsubstantiated conclusions to close a file



Conducting superficial investigations.

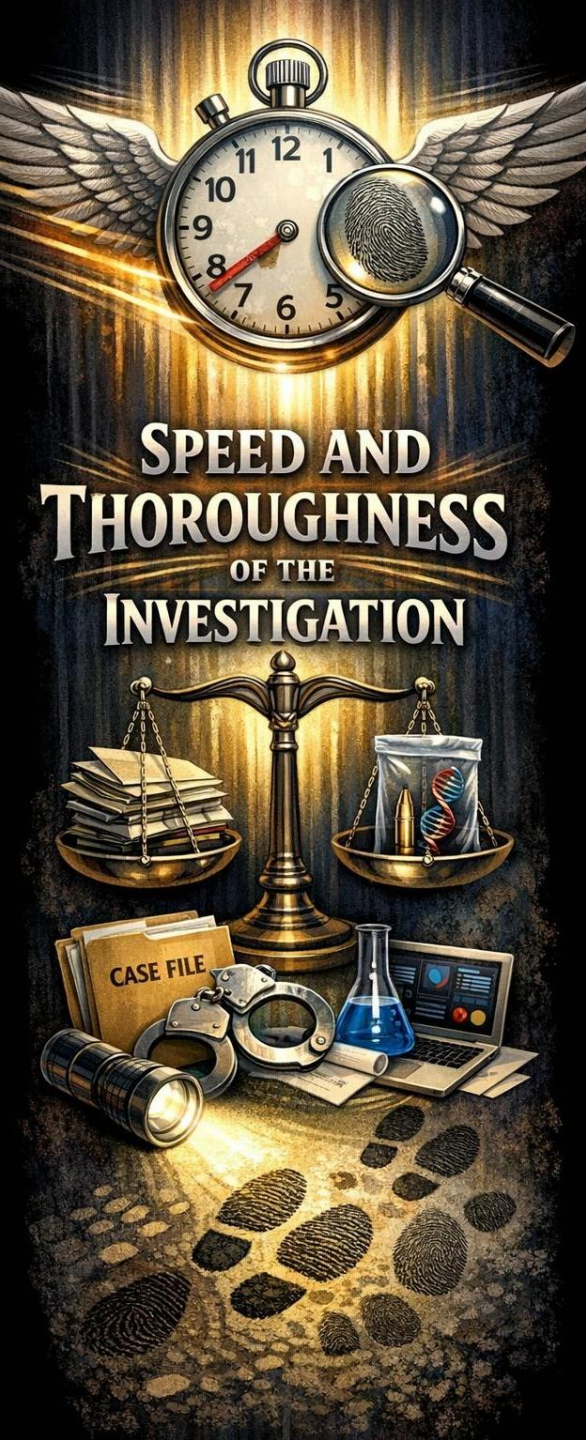
Using incomplete findings as the primary basis for their legal decisions



Making legal decisions without full evidence.

SPEED AND THOROUGHNESS

- **Requirement for Promptness:** A rapid response is essential to maintain in the rule of law. Delays create a damaging appearance of state collusion or a "tolerance" of illegal acts
- **The "Serious Attempt" Standard:** Authorities are legally obligated to make a genuine effort to uncover the truth. They are strictly prohibited from:
 - Relying on **hasty or unsubstantiated conclusions** to close a file
 - Using incomplete findings as the primary basis for their legal decisions

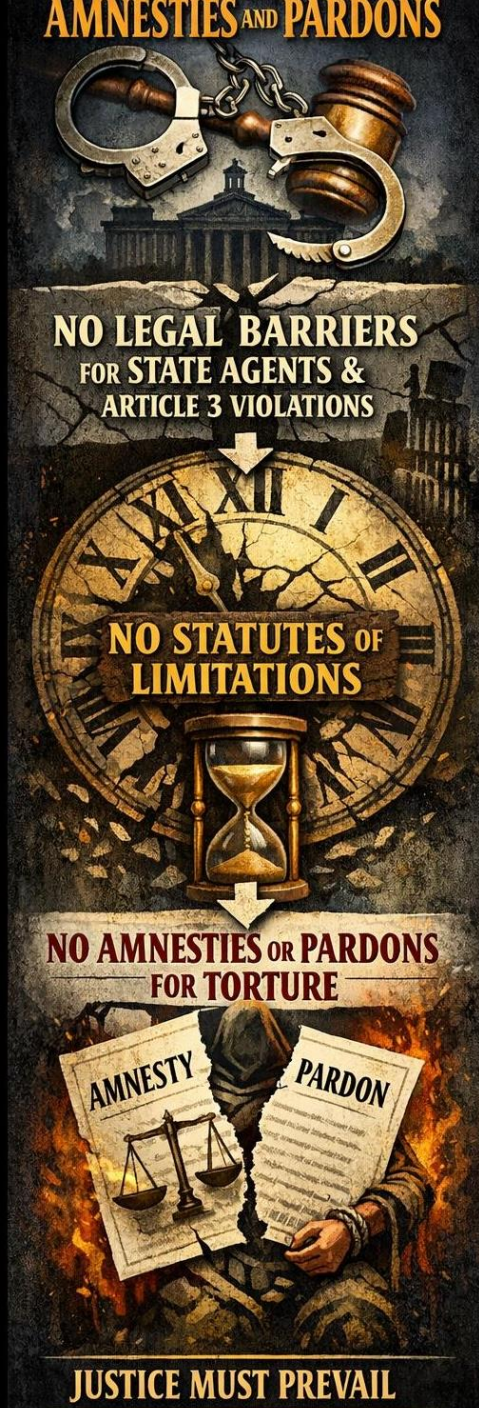


SPEED AND THOROUGHNESS

- **Evidentiary Obligations:** To meet the "thoroughness" criteria, the State must take all reasonable steps to secure evidence, including:
 - **Witness Statements:** Compiling accounts from those present
 - **Forensic Evidence:** Utilising medical and scientific data to verify claims of injury
- **Risk of Breach:** Any procedural shortcoming that undermines the ability to establish **the cause of injuries** or identify **the persons responsible** constitutes a breach of Article 3's procedural limb
- **Preventing Impunity:** The ultimate goal of a prompt and thorough investigation is to ensure that human rights protections are practical and that state agents remain accountable for their actions

AMNESTIES AND PARDONS

- **Prevention through Accountability:** The effective punishment of ill-treatment is an integral part of its prevention. If officials are not held accountable, the prohibition of torture becomes a hollow declaration
- **Combating the "Culture of Impunity":** A swift and effective response is required to deter future abuses
 - Failure to act sends a message to potential perpetrators that they can mistreat detainees without consequence
 - Holding those who "order, authorize, or condone" torture accountable sends a clear message of zero tolerance
- **Prohibition of Legal Barriers:** In cases involving State agents and Article 3 violations, criminal proceedings and sentencing must **not** be impeded by:
 - **Statutes of Limitations:** Time limits should not prevent the prosecution of such grave crimes
 - **Amnesties or Pardons:** Granting legal forgiveness to perpetrators of torture is generally incompatible with the State's duty to investigate
- **Practical vs. Illusory Protection:** Applying amnesties to the killing or ill-treatment of civilians renders Convention guarantees **illusory**



VICTIM

- The victim must be able to take an **active part** in the process in one form or another.
- **Access as an Effective Remedy:** The right to an "effective remedy" for ill-treatment explicitly encompasses the applicant's **effective access** to the investigation proceedings.
- **Core Procedural Requirements:**
 - **Personal Testimony:** Authorities should question the victim in person to ensure their account is officially recorded.
 - **Inclusion of Version of Events:** The victim's specific allegations and perspective must be addressed and mentioned in official decisions.
- **Barriers to Participation:** A violation often occurs when:
 - **No Formal Status:** Failure to institute criminal proceedings prevents the applicant from formally claiming "victim status," stripping them of associated procedural rights.
 - **Lack of Information:** Victims are left in the dark regarding the progress or findings of the inquiry.
- **Transparency and Scrutiny:** Victim involvement serves as a safeguard against "behind-closed-doors" investigations and ensures that the process is subject to sufficient public and individual scrutiny to maintain legitimacy

Core Procedural Requirements

Key elements ensuring active participation:

1) Personal Testimony



Individuals are permitted to give this present evidence.



Individuals are permitted to give present evidence.

2) Inclusion of Version of Events



Their perspectives must be a part of the formal record.



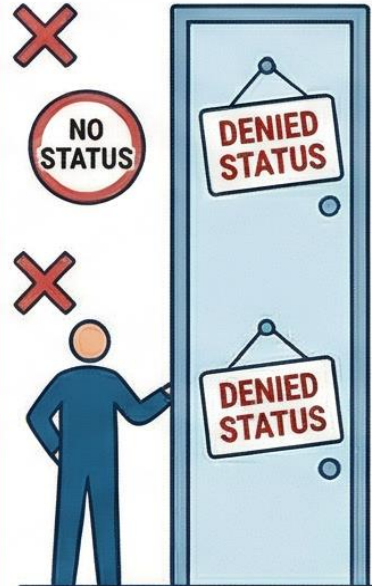
Their perspectives must be a part of the formal record.

Barriers and Prohibitions

A violation often occurs when core requirements are not met:
A failure of access results in:



No Formal Status



Access is blocked by a lack of recognition.



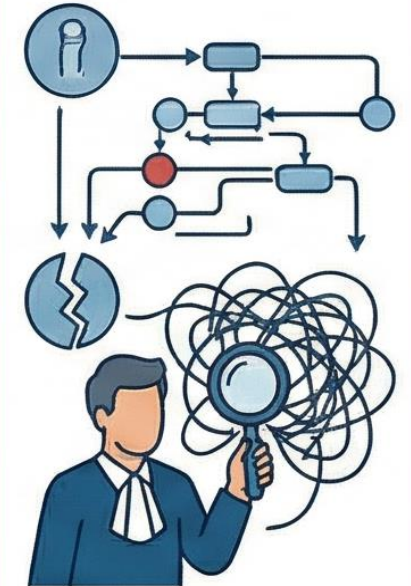
Lack of Information



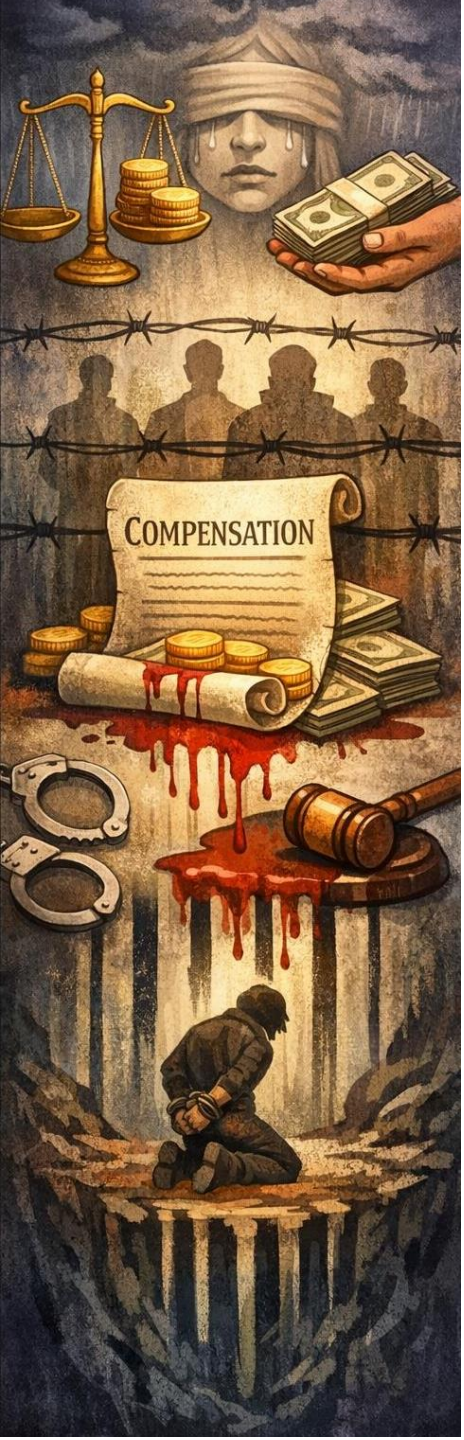
Essential case details are withheld.



Transparency and Scrutiny



The process lacks public and independent review.

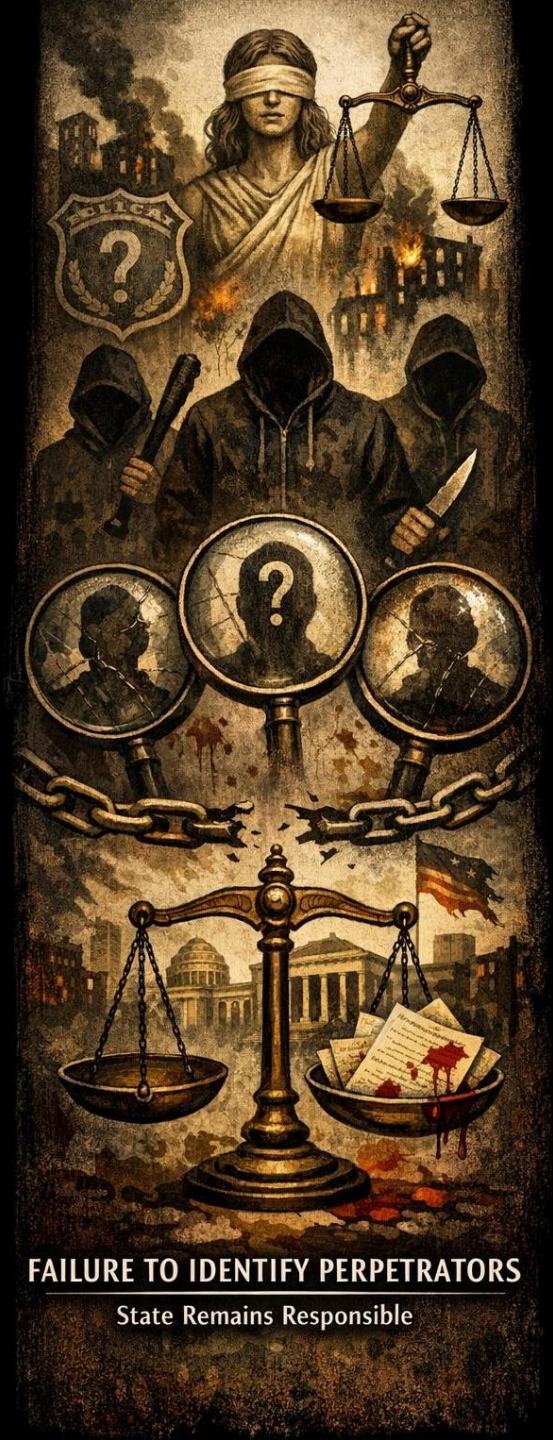


FINANCIAL COMPENSATION

- **Inadequacy of Monetary Awards Alone:** Legal proceedings that result **only** in financial compensation do not satisfy the procedural requirements of Article 3. Compensation is not a substitute for the identification and punishment of those responsible
- **The Risk of "Virtual Impunity":** If the State could resolve cases of deliberate ill-treatment simply by paying a fine while remaining passive toward prosecution:
 - State officials could abuse those under their control with little fear of personal consequence
 - The fundamental legal prohibition of torture would become **ineffective in practice**
- **Cases Involving Death:** Where intentional ill-treatment results in the death of a victim, the violation **cannot be remedied** solely through compensation.
- **The Requirement of Prosecution:** To prevent a culture of impunity, the State must take active measures to:
 - **Investigate** the fault of State agents
 - **Prosecute** those found responsible
 - **Apply appropriate punishment**

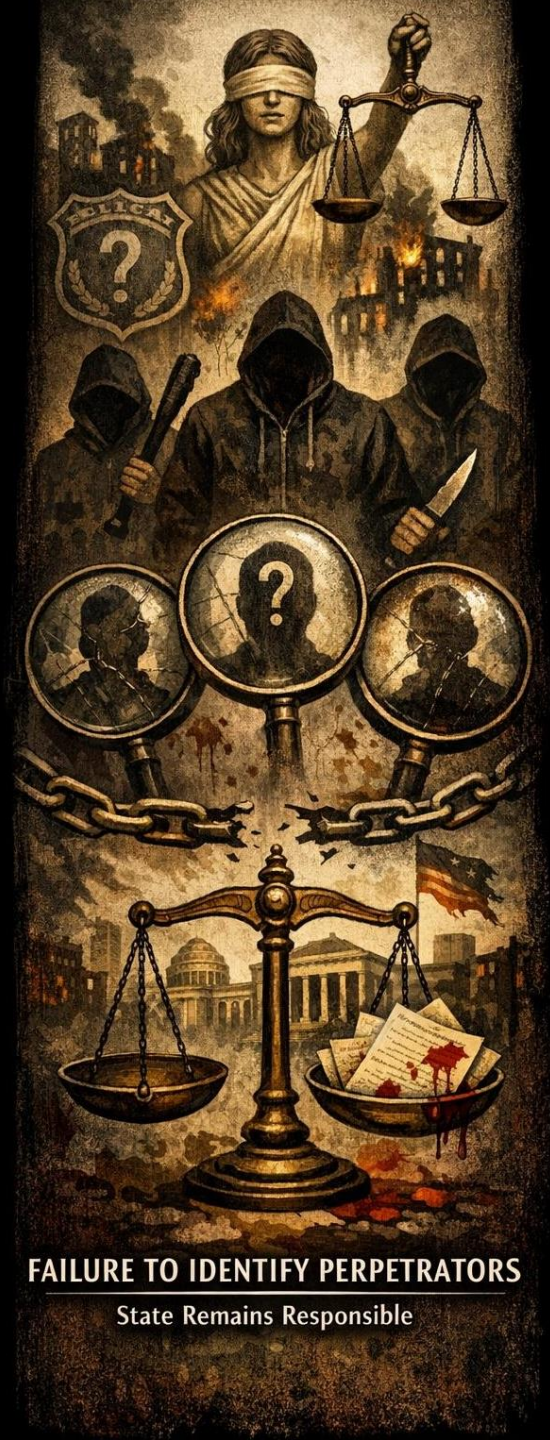
FAILURE TO BRING TO JUSTICE

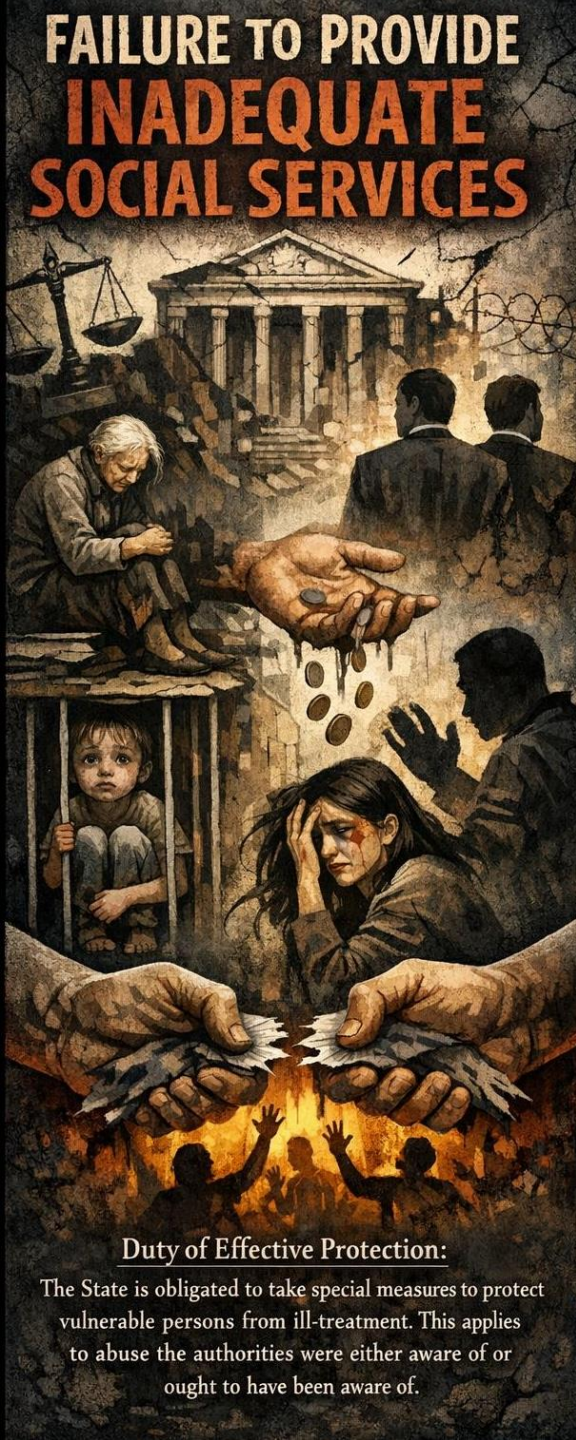
- **State Responsibility for Welfare:** The State bears an inherent duty to protect the welfare of all individuals in detention. Because these persons are under the total control of the authorities, the State is directly responsible for any harm they suffer
- **Failure to Identify Perpetrators:** The inability or failure of the authorities to identify and prosecute specific individuals responsible for acts of violence does **not** absolve the State of its liability under the Convention
 - The obligation to protect is objective; the State remains responsible for the breach of rights regardless of whether a specific officer is convicted



FAILURE TO BRING TO JUSTICE

- **The Impact of Acquittals:** Even if individual police officers are acquitted in national criminal proceedings, the State is **not relieved** of its responsibility
 - A "not guilty" verdict for an individual agent in a domestic court does not automatically mean the State has met its obligations under Article 3
- **Non-Delegable Duty:** The duty to ensure that detainees are not subjected to ill-treatment is non-delegable. If a person is injured while in custody, the State's failure to provide justice constitutes a separate and continuing violation of its procedural and substantive duties
- **Presumption of Liability:** In the absence of a successful prosecution, the State must still provide a plausible explanation for injuries and remains liable for the failure to ensure a "practical and effective" protection of the individual's rights





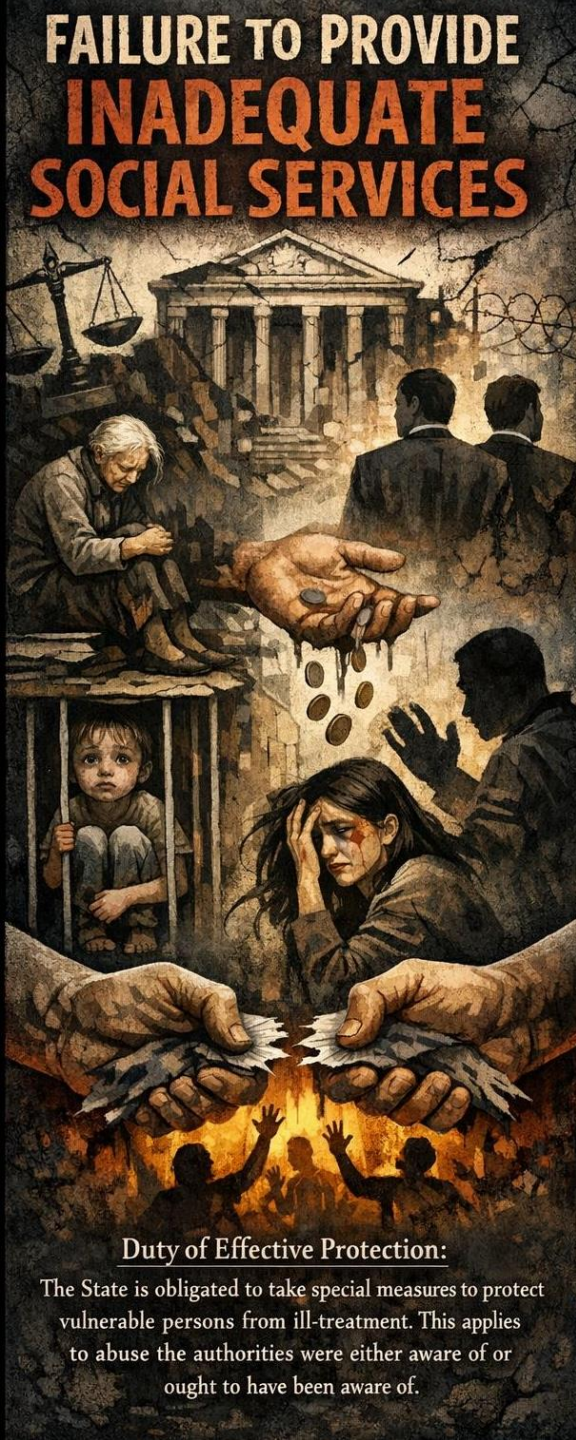
FAILURE TO PROVIDE INADEQUATE SOCIAL SERVICES

ADEQUATE SOCIAL SERVICES

- **Duty of Effective Protection:** The State is obligated to take **special measures** to protect vulnerable persons from ill-treatment. This applies to abuse the authorities were either aware of or **ought to have been aware of**
- **Protection of Socially Vulnerable Groups:** The duty to protect under Article 3 specifically extends to:
 - **Children:** Who require heightened safeguards due to their age and dependency
 - **Other vulnerable groups:** Individuals who, due to physical, mental, or social circumstances, cannot protect themselves
- **Systemic Failure as a Violation:** A violation of Article 3 occurs when the **system of public authorities** fails to intervene in cases of:
 - Cruel and prolonged abuse
 - Severe parental neglect
 - Situations where social services had the information necessary to act but failed to do so

Duty of Effective Protection:

The State is obligated to take special measures to protect vulnerable persons from ill-treatment. This applies to abuse the authorities were either aware of or ought to have been aware of.



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 - Situations where social services had the information necessary to act but failed to do so
- **Responsibility of School Authorities:**
 - Schools have a specific duty to protect the **health and welfare** of pupils
 - This duty is heightened for young children, as they are considered especially vulnerable and are under the **exclusive control** of school staff during the day
- **Positive Obligations:** Article 3 does not just prohibit the State from inflicting pain; it requires the State to take **proactive steps** to ensure that vulnerable individuals are not left in environments where they are subjected to inhuman or degrading treatment by private parties

Duty of Effective Protection:

The State is obligated to take special measures to protect vulnerable persons from ill-treatment. This applies to abuse the authorities were either aware of or ought to have been aware of.

DETENTION OF PERSONS WITH DISABILITIES



Duty of Special Care

Ensure detention conditions meet the needs of persons with disabilities

The "Foreseeability" of a Violation

Inadequate facilities foreseeably lead to suffering



Case Example: Price v. the UK



The Situation

Wheelchair user given a custodial sentence

The Breach

Denied proper access and care



Lack of Accessibility and Support
Leads to a Violation

PERSONS WITH DISABILITIES

- **Duty of Special Care:** When the State deprives a person with a disability of their liberty, it has an affirmative obligation to ensure detention conditions meet the **specific needs** arising from that disability
- **The "Foreseeability" of a Violation:** Even in the absence of a malicious intent to mistreat a detainee, a violation of Article 3 occurs if it is **objectively evident** that standard detention facilities are inadequate for the individual's condition
- **Price v. the UK:** A person confined to a wheelchair, unable to care for herself, was given a short custodial sentence
- **Irrelevance of Intent:** The Court emphasises that the **actual conditions** of detention — not the motives of the police or prison staff — are the deciding factor. If the environment causes suffering that crosses the threshold of "degrading," the State is liable
- **Positive Obligations:** To remain compliant with Article 3, the State must proactively adapt the physical environment and provide necessary personal assistance to maintain the **human dignity** of detainees with disabilities

DESTRUCTION OF PROPERTY

- **Threshold for Article 3:** While the destruction of property is typically an issue of the right to possessions (Article 1 of Protocol No. 1), it can cross the threshold into **inhuman treatment** under Article 3 based on the specific circumstances and the manner in which it is carried out
- **The Element of Presence and Personal Impact:**
 - A critical factor is whether the destruction occurs **in the presence of the owners**
 - Witnessing the deliberate destruction of one's home and lifelong possessions by State agents causes a level of psychological trauma and suffering that reaches the Article 3 threshold
- **Vulnerability of the Victims:** The Court places significant weight on the **age and situation** of the applicants (e.g., elderly individuals aged 54, 60, or 70). The loss of a home at an advanced age represents a total deprivation of security and dignity
- **Case Precedents (*Dulaş v. Turkey*; *Selçuk and Asker v. Turkey*):**
 - In these cases, the burning or destruction of homes by security forces during police operations was classified as **inhuman treatment**
 - The acts were found to be calculated to cause **grave mental anguish** and to humiliate the individuals, regardless of any stated "security" objective



GENERAL SCHEME: THRESHOLD FOR ARTICLE 3 IN PROPERTY DESTRUCTION

THRESHOLD FOR ARTICLE 3



- DESTROYED PROPERTY (NORMALLY ART 1 PROTOCOL 1) RISES TO ART 1 PROTOCOL 1) RISES TO ARUDİĞÖ ART 3 INHUMAN TREATMENT BASED ON SPECIFIC CIRCUMSTANCES

PRESENCE AND PERSONAL IMPACT



PRESENCE AND PERSONAL IMPACT

- WITNESSING DELIBERATE DESTRUCTION OF HOME AND POSSESSIONS BY STATE AGENTS CAUSES PSYCHOLOGICAL TRAUMA

VULNERABILITY OF VICTIMS



VULNERABILITY OF VICTIMS

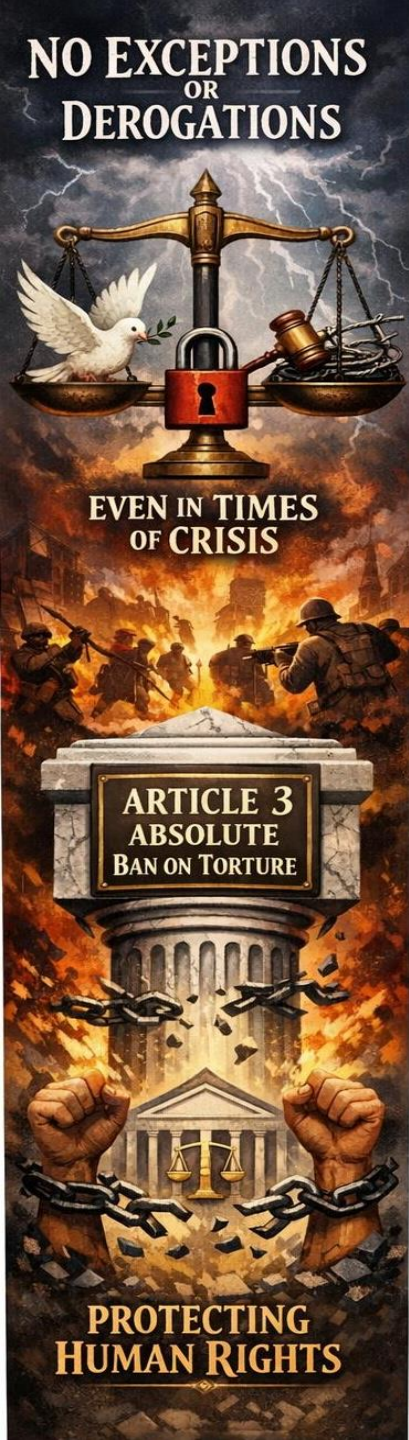
- ADVANCED AGE (e.g., 50s-70s) & SITUATION WEIGHT SWEIGHT SIGNIFICANTLY. LOSS OF HOME = TOTAL LOSS OF SECURITY & DIGNITY

CASE PRECEDENTS



DULAŞ v. TURKEY; SELÇUK AND ASKER v. TURKEY

- BURNING/DESTRUCTION OF HOMES BY SECURITY FORCES IS INHUMAN TREATMENT
- ACTS CALCULATED TO CAUSE GRAVE MENTAL ANGUISH AND HUMILIATION, REGARDLESS 'SECURITY' OBJECTIVE



TERRORISM

- **Challenges of Investigation:** It is recognized that investigating terrorist offenses presents unique and significant challenges for national authorities, including inherent complexity and high stakes
- **Physical Integrity as a Non-Negotiable:** Neither the requirements of an investigation nor the complexity of combating terrorism can justify a breach of an individual's physical integrity
- **Absolute Prohibition of Ill-Treatment:**
 - Even in the "most difficult circumstances" — including the fight against terrorism and organized crime — Article 3 prohibits torture and inhuman or degrading treatment in **absolute terms**.
 - This prohibition applies regardless of the conduct of the person concerned (e.g., even if they are suspected of mass-casualty crimes)
- **No Exceptions or Derogations:**
 - Unlike many other Convention provisions, Article 3 allows for **no exceptions**, even in a state of emergency threatening the life of the nation.
 - It remains a fundamental value of democratic society that must be upheld to ensure human rights protections are not rendered illusory during times of crisis

PRISONERS' RIGHTS

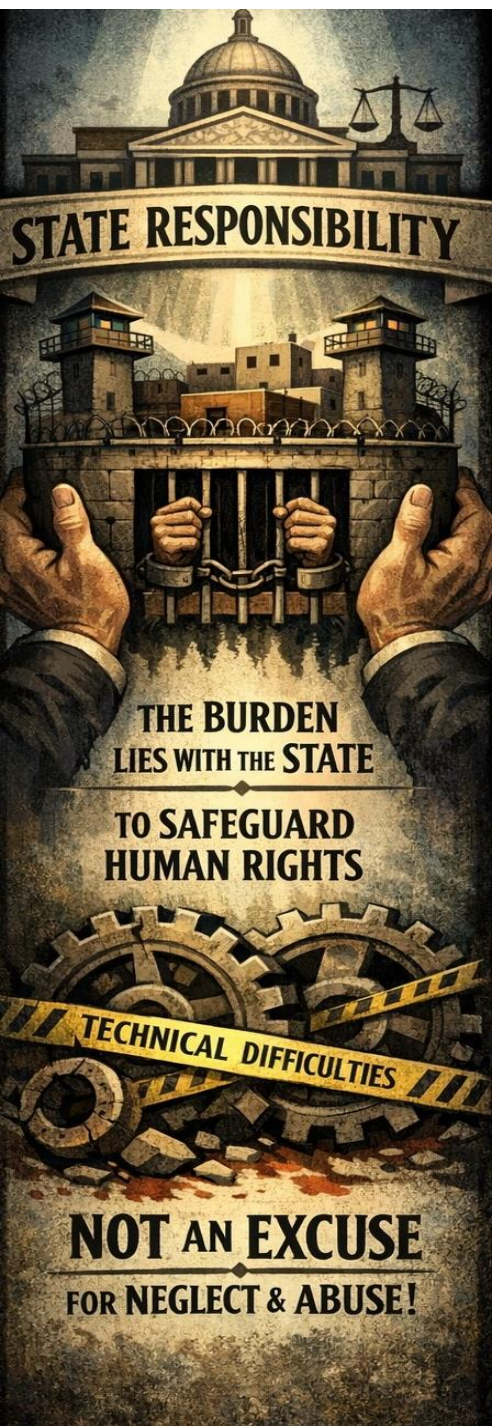
- **Beyond the Prison Gates:** The protections of the ECHR do not stop at the prison entrance. Inmates retain their fundamental rights, and the State remains accountable for their treatment throughout their sentence
- **Defining Degrading Treatment:** Treatment is characterised as **degrading** under Article 3 if it:
 - Demonstrates a clear **lack of respect** or seeks to humiliate
 - Arouses feelings of **fear, suffering, or inferiority**
 - Is capable of **breaking a person's moral or physical resilience**



PRISONERS' RIGHTS



- **The Threshold of "Inevitable Suffering":** The Court acknowledges that detention inherently involves a degree of suffering and humiliation. However:
 - To violate Article 3, the hardship must **exceed the inevitable level** of suffering inherent in being jailed
 - The "manner and method" of the detention must not subject the person to distress of an intensity that crosses into inhumanity
- **The State's Positive Obligation:** The State must proactively ensure that:
 - Conditions are **compatible with human dignity**
 - The prisoner's **health and well-being** are adequately safeguarded, considering the practical requirements of imprisonment
 - Specific facility issues are addressed if they consistently subject prisoners to inhuman conditions



FUNDING THE PRISON

- **Dignity Over Logistics:** The State is legally obligated to organize its prison system to ensure the respect of detainees' dignity. This duty remains absolute, **regardless of financial or logistical difficulties**
- **Irrelevance of Resource Shortages: Staffing:** A shortage of personnel does not relieve the State of its mandatory duty to ensure the well-being of prisoners
 - **Economic Climate:** Lack of funds or general economic difficulties cannot justify detention conditions that fall below the standards of Article 3.
- **Structural and Social Challenges:** Neither a high crime rate nor "structural problems" within the national system serve as mitigating factors or excuses for inadequate conditions
- **The "In Principle" Rule:** While the Court may acknowledge technical hurdles, a lack of resources can **never justify** conditions so poor that they cross the threshold into inhuman or degrading treatment

LIVING AND PERSONAL SPACE – ECtHR

Calculating Personal Space



Functional Test



Can the prisoner
move freely?



Severe Overcrowding



Cumulative Effect



Aggravating Factors



• Calculating Personal Space:

- **Exclusions:** Sanitary facilities (toilets/showers) located within a cell should **not** be included in the calculation of the total living area
- **Inclusions:** Space occupied by furniture (beds, tables, cupboards) **is included** in the calculation of available floor space
- **Functional Test:** A critical factor is whether the prisoner is physically able to move about normally within the cell

• The Threshold of Severe Overcrowding:

- Significant lack of space is a primary indicator of treatment that "deprives an applicant of their dignity."
- A lack of individual sleeping places (e.g., sharing a bed or sleeping in shifts) significantly exacerbates the severity of overcrowding

• The "Cumulative Effect" Principle:

- Even if overcrowding is not severe enough on its own to violate Article 3, it may do so when combined with other poor conditions
- **Aggravating Factors:** Lack of privacy during toilet use, poor ventilation, lack of natural light, inadequate heating, or insufficient basic hygiene

Calculating Personal Space



Functional Test



Can the prisoner
move freely?



Severe Overcrowding

Lack of Dignity
No Space to Sleep



Cumulative Effect



+
Overcrowding
Poor Conditions

Aggravating Factors



No Privacy



Poor Ventilation



Dim Light



Unsanitary
Conditions



Combined Impact of Inhumane Conditions

LIVING AND PERSONAL SPACE

• Non-Violations (The *Lutsenko* Example):

- A violation is unlikely to be found if the personal space exceeds **4 square metres**, there is no shortage of beds, and there is no evidence of inadequate lighting, ventilation, or hygiene
- Minor difficulties in living conditions that do **not** reach a "minimum level of severity" are considered part of the inherent hardship of detention

• Mitigating Opportunities:

- The opportunity for daily exercise (e.g., a one-hour walk) and the absence of window coverings that block natural light are seen as positive factors that can mitigate the impact of confined living spaces

Calculating Personal Space



Functional Test



Can the prisoner
move freely?



Severe Overcrowding

Lack of Dignity
No Space to Sleep



Cumulative Effect



+

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PERSONAL SPACE – ECtHR

Overcrowded Cells



Less than 3 m²
Violation of Article 3

Single Cell



Min. 3 m²

Shared Cell



Min. 4 m²
per person

Dignity Standards



Own Bed for
Every Prisoner



At Least 3 m²
Per Person



Free Movement
in the Cell

• The 3 Square Metre "Hard" Threshold:

- If a prisoner has **less than 3 sq.m.** of living space in a multi-occupancy cell, there is a **strong presumption** of a violation of Article 3
- This overcrowding is usually considered sufficiently serious to constitute a violation **regardless of other factors**
- Space ranging from **1 sq. m. to 2.5 sq.m.** per person is classified as "persistent and substantial" overcrowding

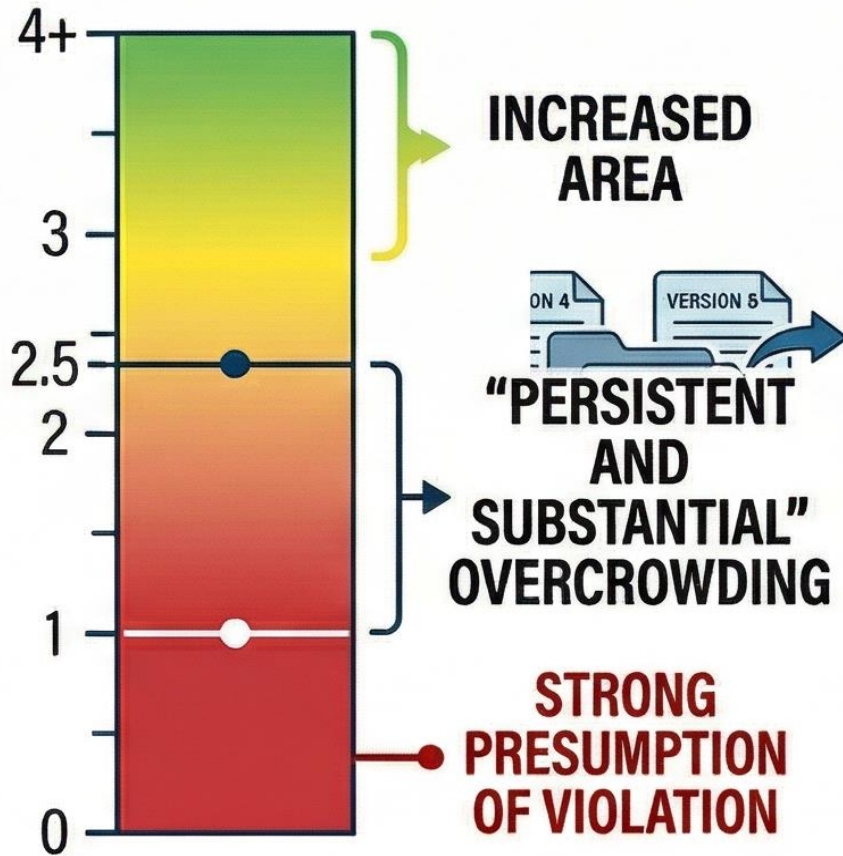
• Multi-Occupancy vs. Single Cells:

- **Single Cells:** The absolute minimum area must not be less than **3 sq. m.**
- **Shared Cells:** The standard is higher; each prisoner should ideally have at least **4 sq.m.** of living space

• A "strong presumption" of a violation arises if any of these three elements are missing:

- Every prisoner must have their own **individual sleeping place** (no bed-sharing or shift-sleeping)
- Every prisoner must have at least **3 sq. m.** of floor space
- The cell layout must allow prisoners to **move freely** between items of furniture

1) THE 3 SQUARE METRE "HARD" THRESHOLD



- Strong presumption of an Article 3 violation if < 3 sq. m. per prisoner (Multi-occupancy).
- Considered sufficiently serious to constitute a violation regardless of other factors.

2) MINIMUM CELL SPACE STANDARDS AND "STRONG PRESUMPTION" ELEMENTS

MULTI-OCCUPANCY vs. SINGLE CELLS

SINGLE CELLS

Absolute minimum:
NOT < 3 sq. m.



SHARED CELLS

Higher standard:
Ideally ≥ 4 sq. m.
per person.



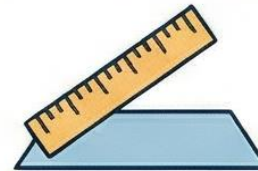
THE "STRONG PRESUMPTION" TEST

INDIVIDUAL SLEEPING PLACE



Each prisoner has their own bed (no sharing or shifts).

MINIMUM FLOOR SPACE



Each prisoner has ≥ 3 sq. m.

FREEMOVEMENT



Move freely between furniture.

Missing any element?



FAILURE =
Strong Presumption of Violation



Overcrowded Cells



Less than 3 m²

Violation of Article 3

Single Cell



Min. 3 m²

Shared Cell



Min. 4 m²
per person

Dignity Standards



Own Bed for
Every Prisoner



At Least 3 m²
Per Person



Free Movement
in the Cell

PERSONAL SPACE

- **The "Grey Zone" (3 sq.m. to 4 sq.m.):**

- In cells providing between 3 sq.m. and 4 sq.m. per person, the lack of space is not an automatic violation but remains a "decisive factor."
- A violation will be found if this limited space is combined with **other inadequate conditions**:
 - Lack of natural light or fresh air.
 - Poor ventilation or inadequate heating.
 - Lack of basic sanitary and hygiene compliance.
 - Limited or no access to outdoor exercise.

- **Privacy and Sanitation:**

- The toilet facility must provide **actual privacy**
- Low partitions that do not shield the user from the living area or cellmates are considered degrading
- Being forced to use a toilet in full view of others, combined with severe overcrowding, constitutes a breach of Article 3

- **Duration of Detention:**

- The length of time a prisoner is subjected to these conditions is a critical aggravating factor. Overcrowding that might be tolerable for a few hours becomes "degrading" when it lasts for weeks or months



Universal 4 sq.m. Standard

At Least 4 sq.m. Per Prisoner in Shared Cells



Aligning National Laws



Aligning Laws to Meet 4 sq.m. Requirement

Single-Occupancy Standards

Minimum 6 sq.m. for Single Cells



Specific Cell Size Restrictions



Two-Person Cells

At Least 10 sq.m.



COMMITTEE STANDARDS

• The Universal 4 sq.m. standard:

- For **shared cells**, the CPT established a minimum standard of at least **4 sq.m.** of living space per prisoner
- This calculation must strictly **exclude** the area occupied by in-cell toilets and washbasins
- The CPT repeatedly calls on nations to align their national laws with this **4 sq.m.** requirement



Universal 4 sq.m. Standard

At Least 4 sq.m. Per Prisoner in Shared Cells



Aligning National Laws



Aligning Laws to Meet 4 sq.m. Requirement

Single-Occupancy Standards

Minimum 6 sq.m. for Single Cells



Specific Cell Size Restrictions



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At Least 10 sq.m.



COMMITTEE STANDARDS

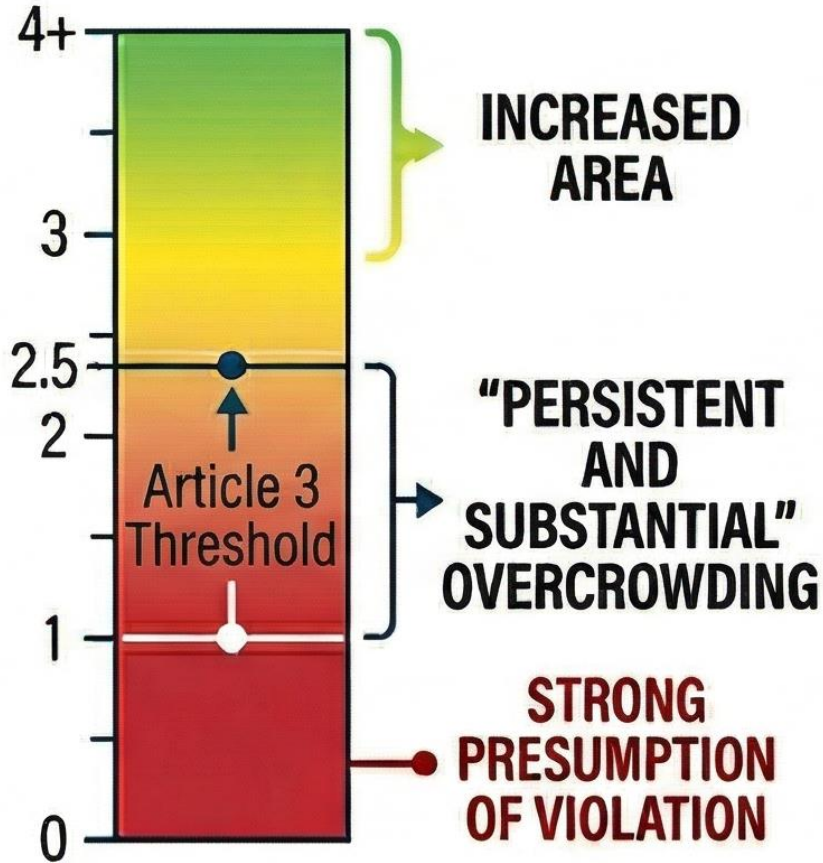
• Single-Occupancy Standards:

- For **single cells**, the minimum acceptable standard is generally **6 sq.m.** (excluding the sanitary area)
- Some recommendations for single cells go higher; for instance, the CPT suggests that cells intended for one person should ideally be **8 to 9 sq.m.**

• Specific Cell Size Restrictions:

- Cells measuring approximately **6 sq. m. or 7 sq. m.** should be used exclusively for **single occupancy**; housing two people in such small spaces provides "very limited" and unsatisfactory living space
- Cells smaller than **8 sq.m.** (excluding the toilet) are deemed unsuitable for more than one person
- Two-person cells should ideally reach a size of at least **10 sq. m.** with a fully partitioned sanitary area

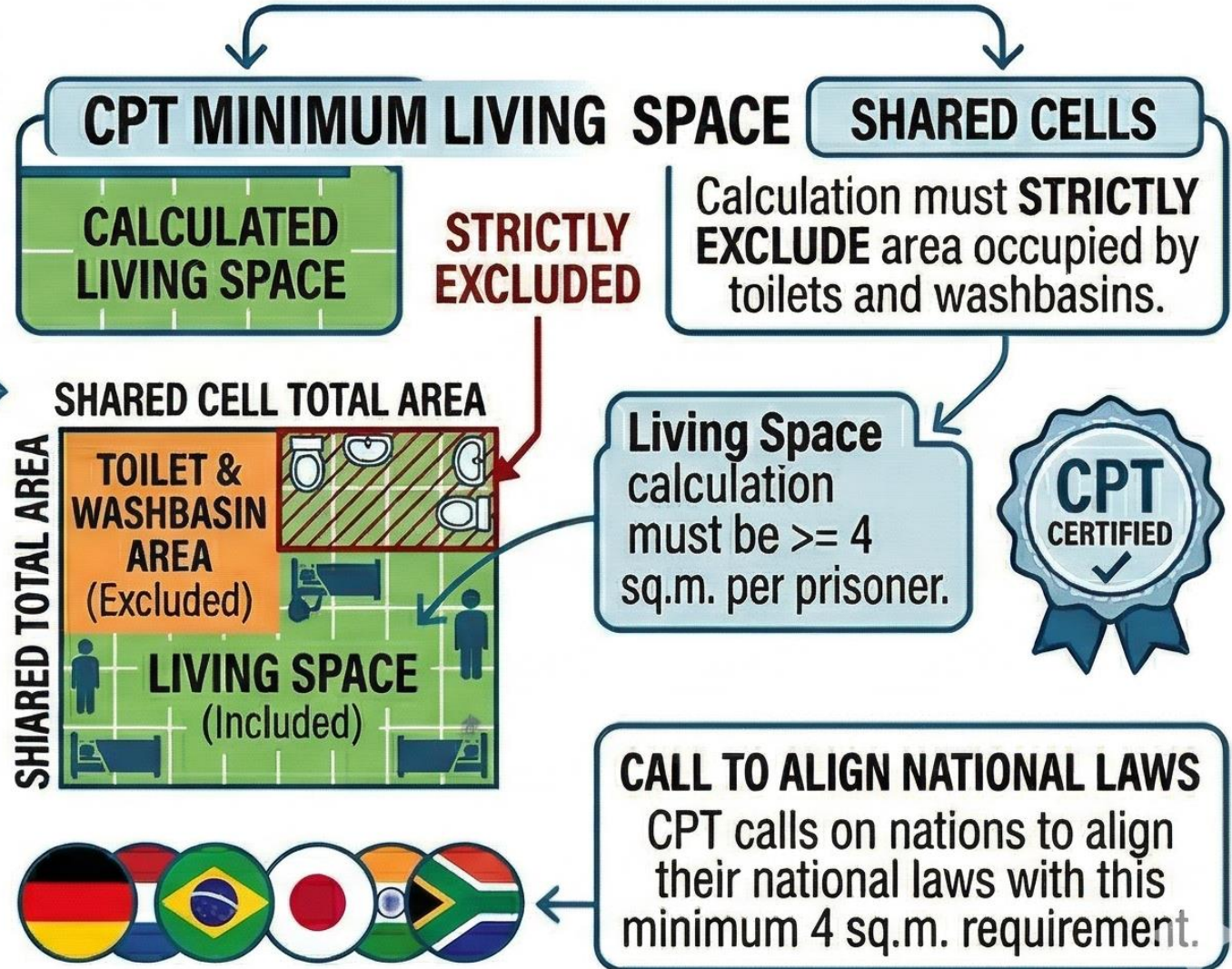
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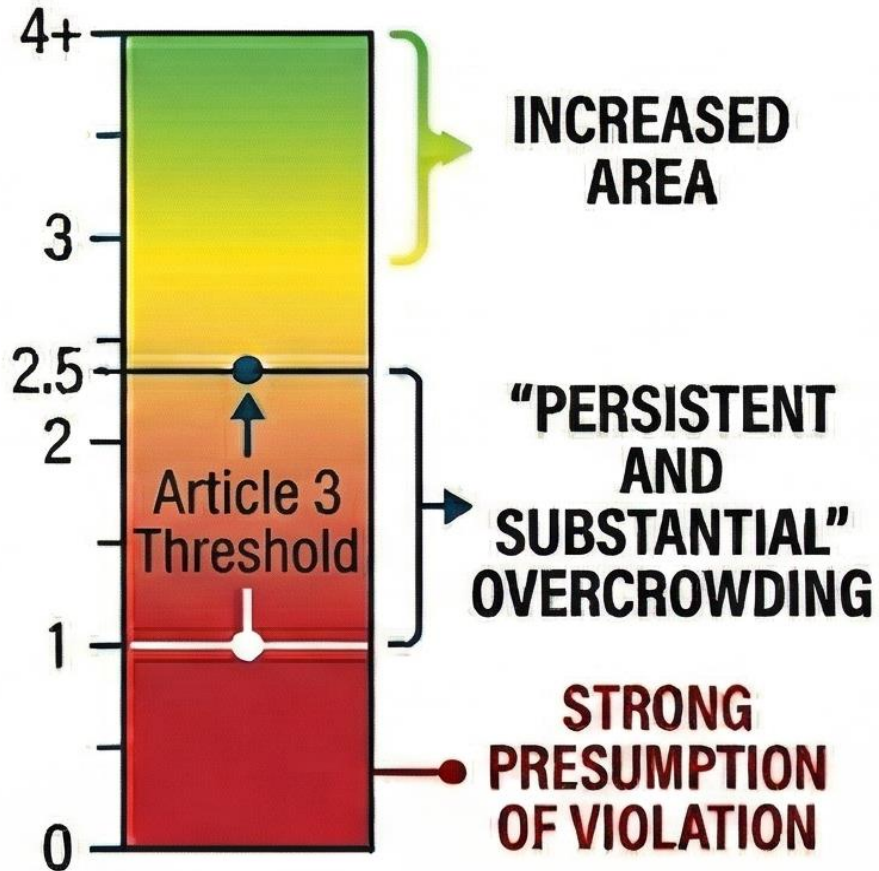
- Strong presumption of violation if <3 sq. m. per prisoner (ECtHR).
- CPT recommends higher standards (4 sq.m.).

2) THE UNIVERSAL 4 SQ.M. STANDARD (SHARED CELLS)

MULTI-OCCUPANCY vs. SINGLE CELLS



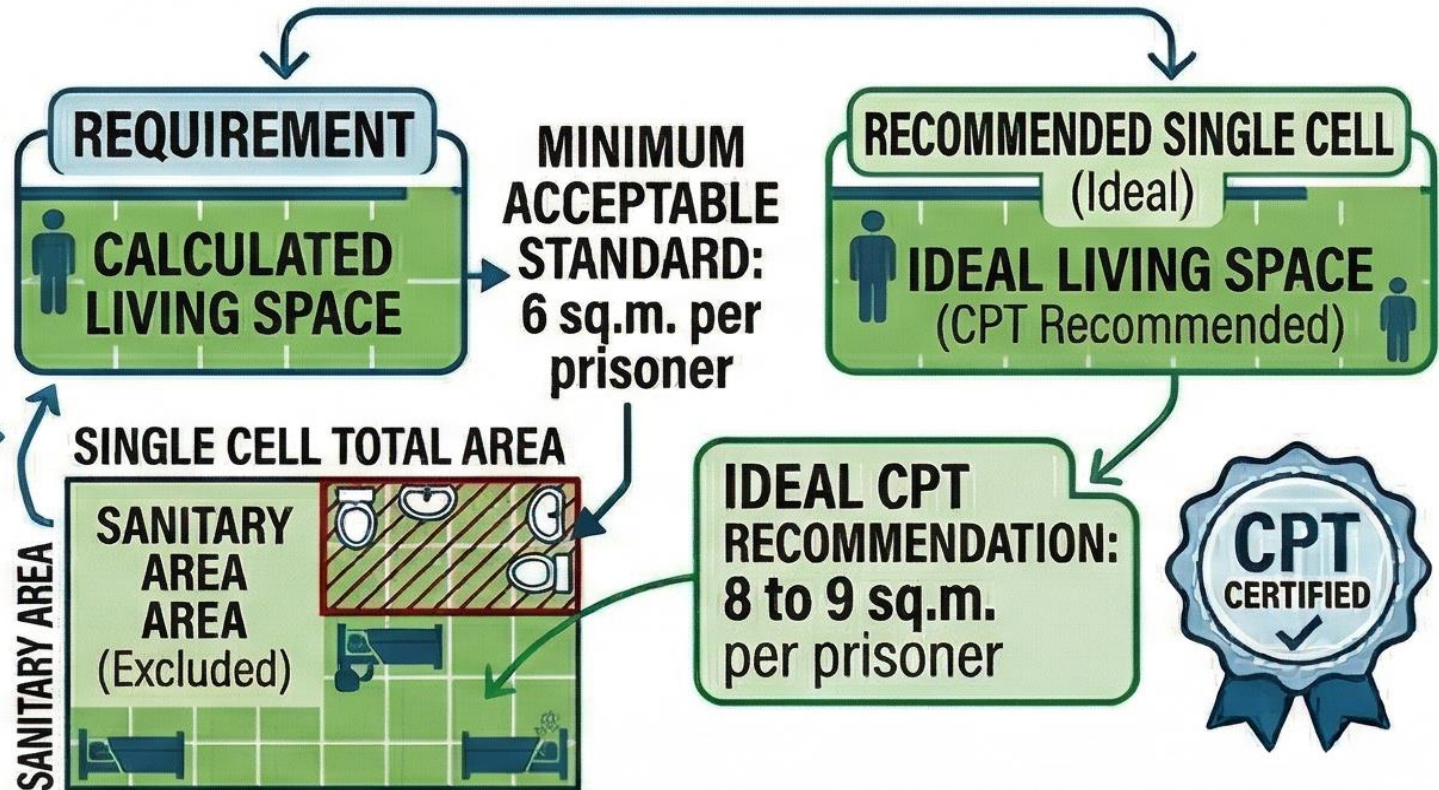
1) THE 3 SQUARE METRE "HARD" THRESHOLD



- Strong presumption of violation if <3 sq. m. per prisoner (ECtHR).
- CPT recommends higher standards (4 sq.m.).

2) THE UNIVERSAL 6 SQ.M. SINGLE CELL STANDARD

SINGLE CELLS: STANDARDS & RECOMMENDATIONS



Calculated Living Space = Total Area - Sanitary Area.



CALL TO ALIGN NATIONAL LAWS

CPT calls on nations to align their national laws with this minimum 8 sq.m. requirement.



Universal 4 sq.m. Standard

At Least 4 sq.m. Per Prisoner in Shared Cells



Aligning National Laws



Aligning Laws to Meet 4 sq.m. Requirement

Single-Occupancy Standards

Minimum 6 sq.m. for Single Cells



Specific Cell Size Restrictions



Two-Person Cells

At Least 10 sq.m.



COMMITTEE STANDARDS

• Sanitary Facilities and Partitioning:

- In-cell toilets must be **fully partitioned** (i.e., with walls extending up to the ceiling) to ensure privacy and hygiene
- The floor space occupied by these partitioned facilities is always subtracted when calculating the "living space" available to the detainee

• Gender and Equality in Standards:

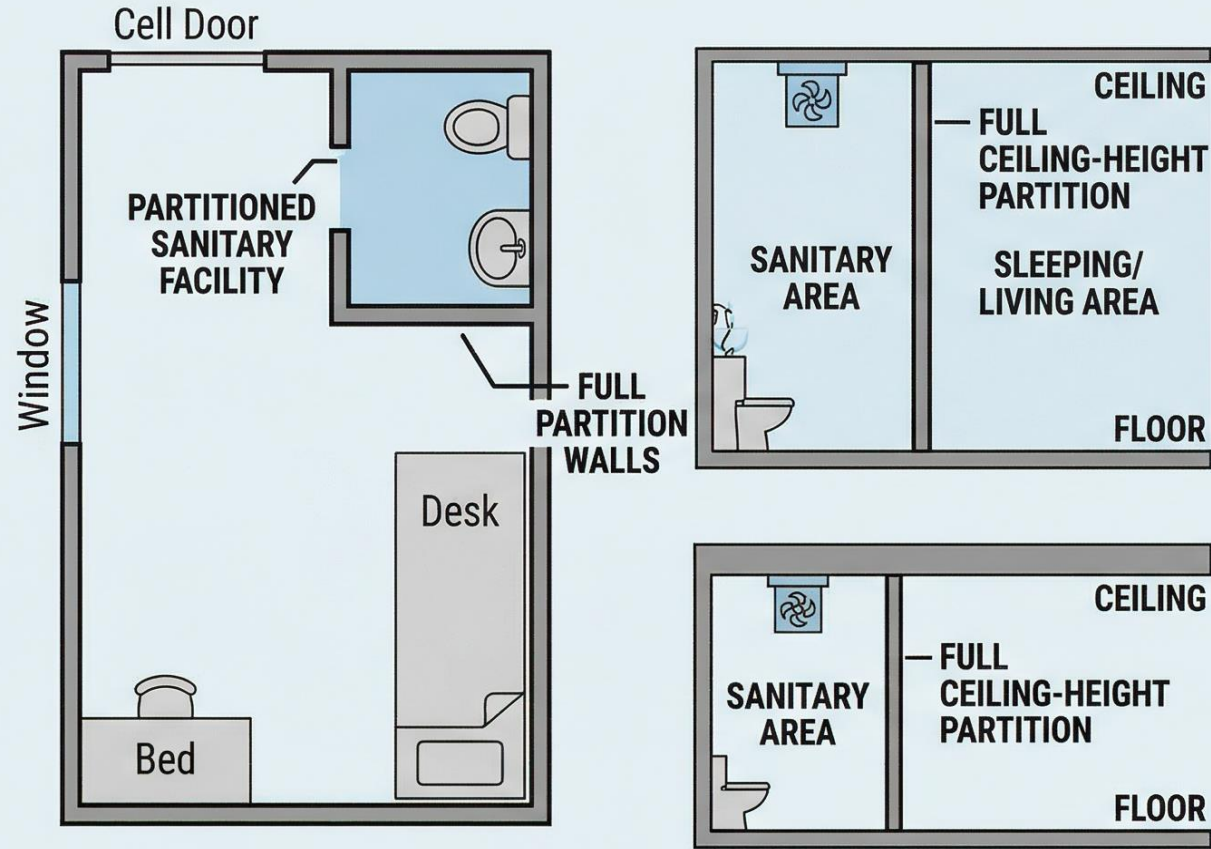
- The CPT recommends that standards for male prisoners (often historically lower, such as 3 sq. m.) must be brought into line with the higher standards typically afforded to female prisoners (**4 sq. m.**)

• Alarming Levels of Overcrowding:

- The CPT has documented extreme cases where living space dropped to as little as **1.5 sq. m. to 2 sq. m.** per
- Such levels are classified as "alarming" and "inhuman," especially when combined with poor hygiene, lack of ventilation, and dilapidated premises

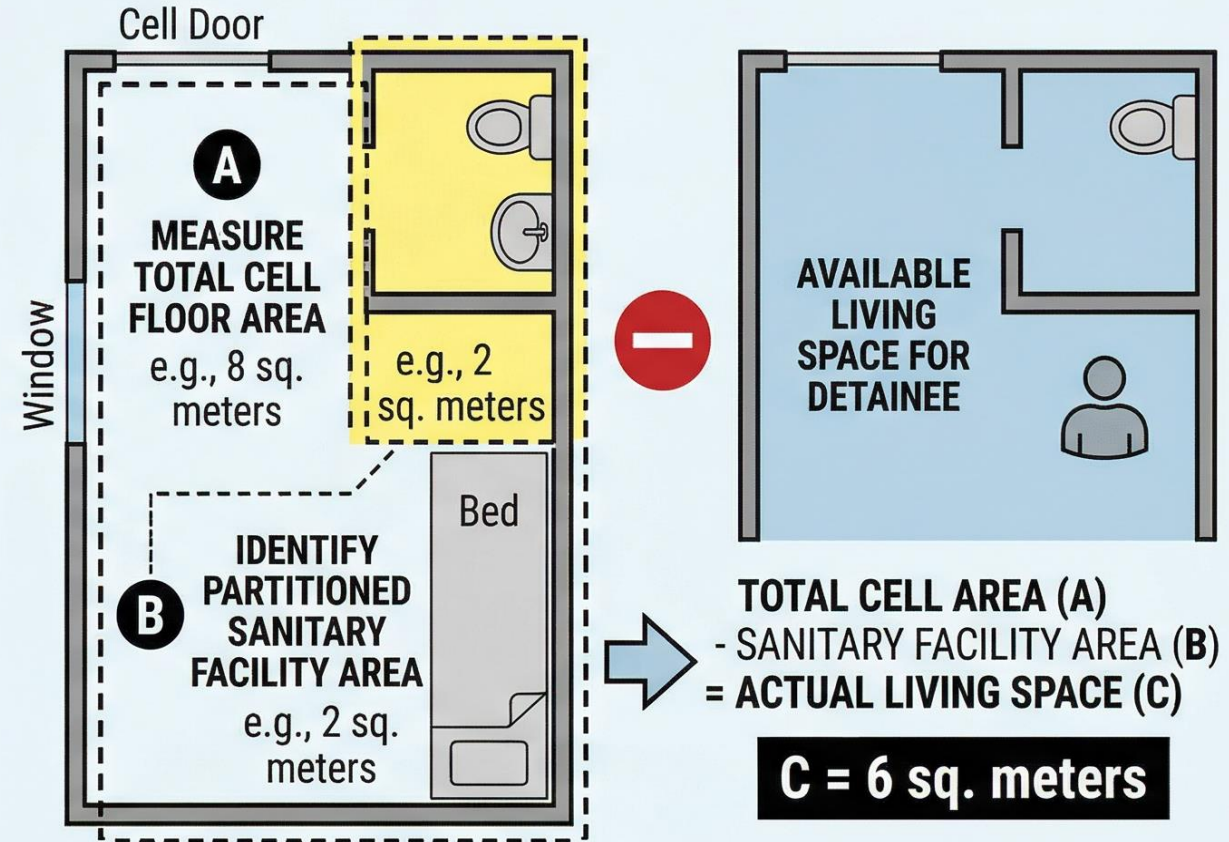
SCHEMATIC FOR IN-CELL SANITARY FACILITIES & LIVING SPACE CALCULATION

1. FULL PARTITIONING FOR PRIVACY & HYGIENE



- Ensures complete auditory & visual privacy
 - Containment of odors
 - Improves overall hygiene
- ✓ **COMPLIANT DESIGN**

2. CALCULATION OF AVAILABLE LIVING SPACE



- Sanitary space is *never* counted as living space
- Ensures accurate assessment of conditions
- Prevents overestimation of available space

Solid black lines: Structure

Blue shaded area: Detainee Living Space

Yellow box: Excluded Sanitary Space



COMMITTEE STANDARDS

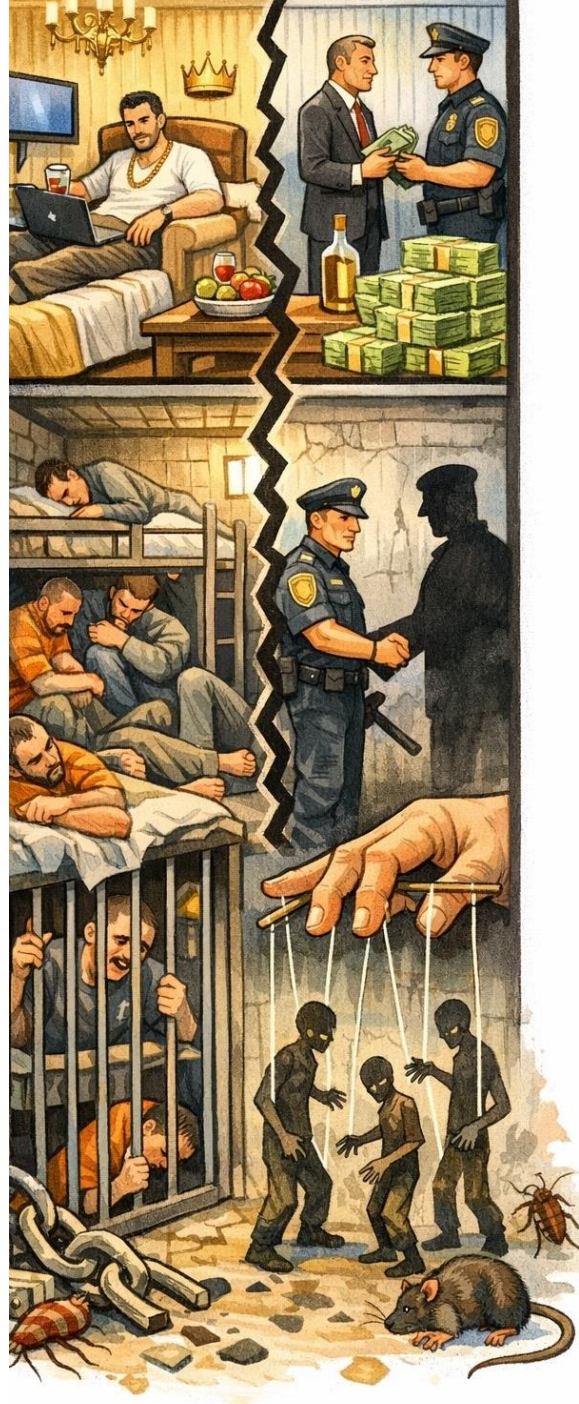
• Structural and Environmental Requirements:

- **Cell Width:** Narrow cells should be reconfigured so that the distance between opposing walls is at least **2 metres**
- **Temperature and Repairs:** Adequate heating, ventilation, and a proper state of repair are mandatory components of "decent conditions."
- **Out-of-Cell Regime:** Even with adequate space, the CPT emphasizes that prisoners should be offered at least **8 hours of purposeful activity** outside their cells daily.

• National Deviations:

- While some countries like Italy calculate occupancy based on **9 sq. m. (single)** and **5 sq. m. (shared)**, the CPT remains firm that the actual experienced living space must never fall below the **4 sq. m.** shared minimum in practice

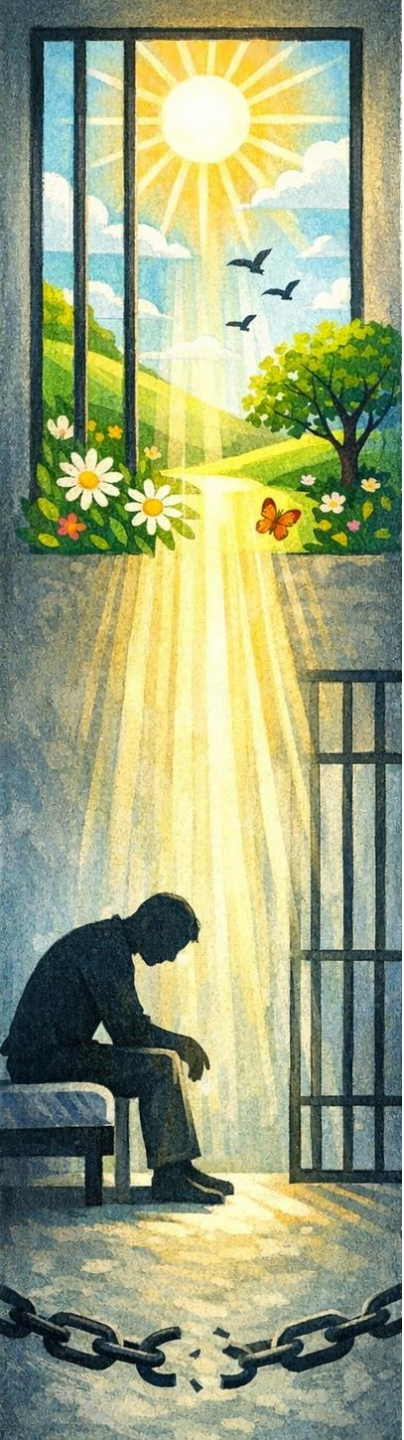
CELL DISPARITY AS AN INDICATOR OF INFORMAL PRISON HIERARCHIES



- Extreme disparities in living conditions within the same institution are clear indicators of a **strong informal prison hierarchy**
- **The Indicator of Privilege:** A "striking contrast" in cell dimensions and occupancy rates suggests that certain prisoners — *the "privileged"* — exercise control over the distribution of space, often with the tacit or explicit consent of the administration
- **Institutional Corruption:** The CPT interprets these disparities as a sign of a breakdown in official order. It indicates that the state has ceded control of internal prison life to an informal power structure, which leads to the systemic exploitation of less powerful inmates

ACCESS TO LIGHT

- Depriving a prisoner of light is considered a significant factor in establishing a violation of Article 3
- **Minimum Standards for Natural Light:**
 - Many cells fail this standard due to **small window sizes** that do not allow for sufficient illumination.
 - Lighting is deemed inadequate if windows face **dark corridors** or internal structures rather than the outside environment
 - The CPT specifically criticizes isolation cells that lack natural light, as the combination of solitary confinement and sensory deprivation is particularly damaging
- **Structural Failures and Decommissioning:**
 - If a cell is designed in a way that makes it **structurally impossible** to provide even minimal access to natural light, the CPT's stance is absolute: that cell must be **taken out of service** for prisoner accommodation
 - This requirement applies regardless of whether the detention is short-term or long-term



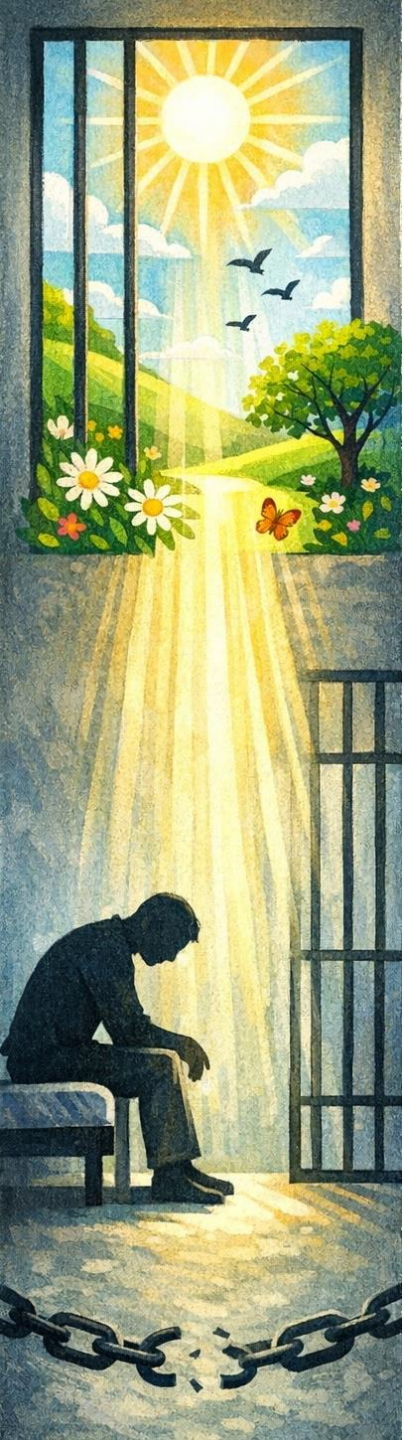
ACCESS TO LIGHT

- **Health and Psychological Impact:**

- Natural light is essential for maintaining the **circadian rhythm** and psychological well-being of detainees
- The absence of light, combined with poor ventilation, often leads to a "**cumulative effect**" that crosses the threshold into degrading treatment

- **Corrective Measures:**

- Authorities are urged to enlarge window openings where possible
- The removal of unnecessary **metal shutters, dense mesh, or plates** (often called "muzzles") that block light and fresh air is a frequent recommendation of the Committee



METHOD OF SERVING MEALS

The way food is delivered is not merely a logistical matter but a baseline requirement for maintaining **human dignity** and **hygiene**

Prohibition of Humiliating Practices: The practice of serving meals in **buckets placed on the floor** is explicitly highlighted as a "cause for concern"

Hygiene and Health Standards:

- Serving food from open buckets on the floor poses significant risks of **contamination** from dust, pests, and floor-level bacteria.
- Appropriate equipment is required to maintain the correct **temperature** of the food, which is a key component of an "adequate diet" under Article 3

Required Equipment:

- **Food Containers:** Meals must be stored and transported in dedicated, food-grade containers that can be easily sanitised
- **Trolleys:** The use of specialized trolleys is recommended to ensure that food is moved through the prison without coming into contact with unsanitary surfaces



FRESH AIR AND VENTILATION

- The right to fresh air is a cornerstone of the "procedural limb" of Article 3. It encompasses both the internal environment of the cell and the mandatory right to spend time outdoors
- **The One-Hour Mandate:**
 - International standards recognise that **all prisoners, without exception**, are entitled to at least **one hour of outdoor exercise daily**
 - This right is absolute and remains in effect even for prisoners held in **disciplinary isolation units**
 - Ideally, this hour should not be the only time out of a cell but should be part of a broader program of purposeful activities
- **Adequacy of Exercise Areas:**
 - The outdoor area must be of a **sufficient size** to allow for actual physical exertion, not merely "standing in a cage"
 - To ensure this right is practical in all seasons, exercise areas should be equipped with **shelter** to protect detainees from bad weather (rain, extreme sun)



FRESH AIR AND VENTILATION

• Internal Ventilation and Windows:

- A cell must have adequate ventilation, especially when a toilet is present in the living area.
- A "window in the proper sense of the word" is required; cells without windows or with windows that are structurally blocked fail the Article 3 test
- If a government cannot prove that a cell is adequately ventilated (e.g., providing airflow measurements or maintenance logs), the Court will generally **favor the applicant's account** of poor conditions

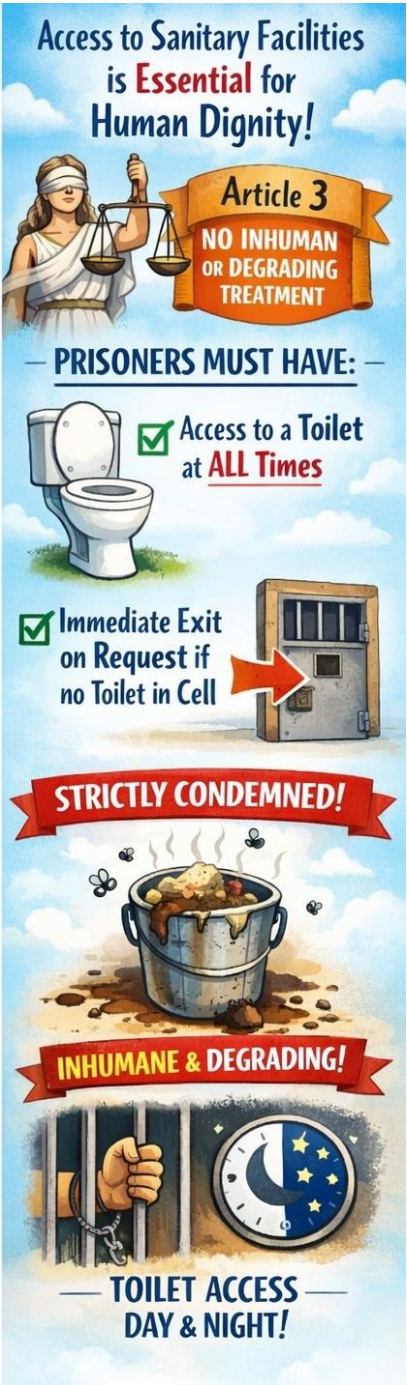
• Cumulative Severity and Violation:

- The Court identifies a violation when poor ventilation is combined with other factors, such as "living, sleeping, and using the toilet" in the same cramped space for extended periods.
- In *Moiseyev v. Russia*, the combination of poor light, poor ventilation, and inadequate exercise over four years was ruled **inhuman and degrading**, as it exceeded the inevitable suffering of imprisonment

• Impact of Duration:

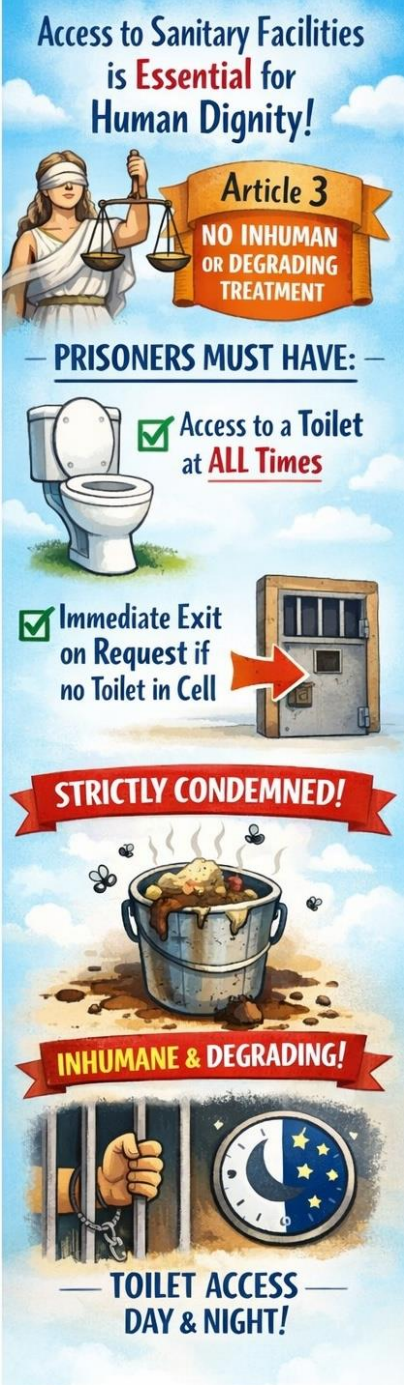
- The "short duration" of outdoor time (less than an hour) or the total length of time spent in a poorly ventilated environment are decisive factors in determining the intensity of the suffering





TOILET FACILITIES

- Access to sanitary facilities is a "**paramount**" requirement for maintaining human dignity. Deprivation or lack of privacy in this area is a primary factor in identifying violations of **Article 3**
- **Access and Availability:**
 - Prisoners must have access to a toilet **at all times**, including throughout the night.
 - If a toilet is not located within the cell, authorities must allow prisoners to leave their cells **without delay** upon request
 - The CPT strictly condemns the use of "**slop buckets**" (buckets emptied only at set times), as this practice is fundamentally incompatible with humane standards
- **The Requirement for Privacy:**
 - Toilets located in a corner of a cell without separation are considered **unacceptable** and degrading
 - Being forced to use a toilet in full view of cellmates or guards (via the door peephole) constitutes a significant psychological burden and a breach of privacy
 - **Full Partitioning:** The CPT mandates that sanitary facilities must be **fully partitioned up to the ceiling** to ensure both olfactory and visual privacy



TOILET FACILITIES

- Access to properly equipped facilities is essential for a prisoner's sense of self-worth
- Regular access to **showers and bathrooms** is a mandatory right.
- It is considered highly desirable, and in many contexts necessary, for cells to have **running water** for basic handwashing and hygiene
- **Medical Considerations:**
 - Lack of privacy and restricted access are classified as "particularly heavy burdens" for prisoners with **digestive system disorders**, potentially exacerbating medical conditions into "inhuman treatment"
- **Cumulative Impact of Poor Sanitation:**
 - In cases like *Melnik v. Ukraine*, the Court ruled that the combination of overcrowding, poor medical care, and unsatisfactory sanitary conditions throughout the detention period amounted to treatment **degrading to human dignity**
 - The "manner and method" of managing waste in a crowded environment is a decisive factor in determining if the threshold of Article 3 has been crossed



USE OF THE SHOWER

- Access to showers is a fundamental requirement for maintaining both personal hygiene and human dignity. Restricted access to bathing is a common component in finding a violation of **Article 3**
- **Frequency and Duration:**
 - Showering only **once every 10 days** or for a limited **15–20 minutes once a week** is legally insufficient to maintain adequate hygiene.
 - The CPT recommends that all prisoners have the opportunity to take a hot shower **at least twice a week**, though a **daily hot shower** is the preferred standard for general hygiene
 - Access should be increased beyond twice a week if "necessary" due to specific health needs or the nature of the prisoner's work
- **Privacy and Infrastructure:**
 - The "manner and method" of showering must respect basic privacy. Forcing detainees into shower rooms in large groups with an **insufficient number of shower heads** is considered degrading.
 - Systemic failures, where an entire cell block is rushed through a limited facility, undermine the dignity of the individual



USE OF THE SHOWER

- **Provision of Hygiene Items:**

- The State has a positive obligation to provide **basic personal hygiene items free of charge**
- This includes soap, toothpaste, and essential items such as **sanitary towels for women**. A lack of these items, combined with infrequent showering, creates a cumulative effect of degrading treatment

- **Temperature and Accessibility:**

- The standard explicitly calls for **hot showers**. Providing only cold water for bathing, especially in colder climates or during winter, can contribute to a finding of inhuman treatment

- **Impact on Dignity:**

- **Ananyev and Others v. Russia:** Limiting shower time is not just a logistical issue but a factor that can "humiliate a person" and break their "physical and moral resistance"

**EXERCISE IS A RIGHT,
NOT A LUXURY!**



THE MINIMUM STANDARD

Protecting Physical & Mental Health



OUTDOOR EXERCISE

FRESH AIR & SUNLIGHT



**EDUCATION
& ACTIVITIES**



**MENTAL
WELL-BEING**

Locked **23 HOURS** IN A CELL...



**ONLY 1 HOUR
OF MOVEMENT**



**SHORT EXERCISE TIME = RISK of
INHUMAN or DEGRADING TREATMENT!**



PHYSICAL EXERCISE AND OUTDOOR ACCESS

- Physical exercise is not a luxury, but a **fundamental safeguard** for a prisoner's physical and mental well-being
- The Minimum Standard:** Every prisoner, without exception, must be granted at least **one hour of outdoor exercise daily**
 - This is a "key safeguard" and should ideally be part of a broader program of activities outside the cell to prevent psychological deterioration.
 - If a prisoner is confined to a cell for 23 hours a day with only one hour of movement, the "short duration" of that exercise can be an **aggravating factor** in finding a violation of Article 3
- Physical Characteristics of Exercise Yards:**
 - Size Matters:** An exercise yard that is barely larger than the cell (e.g., only 2 sq. m. larger) is considered inadequate for "rest and recuperation"
 - The "Cage" Effect:** Yards enclosed by high walls (e.g., 3 metres) and covered with dense metal mesh or bars create a sense of further confinement rather than relief
 - Shelter:** To make the right to exercise practical, yards must be equipped with **shelters** to protect prisoners from rain, snow, or extreme sun. Without shelter, the right to exercise is effectively denied during bad weather



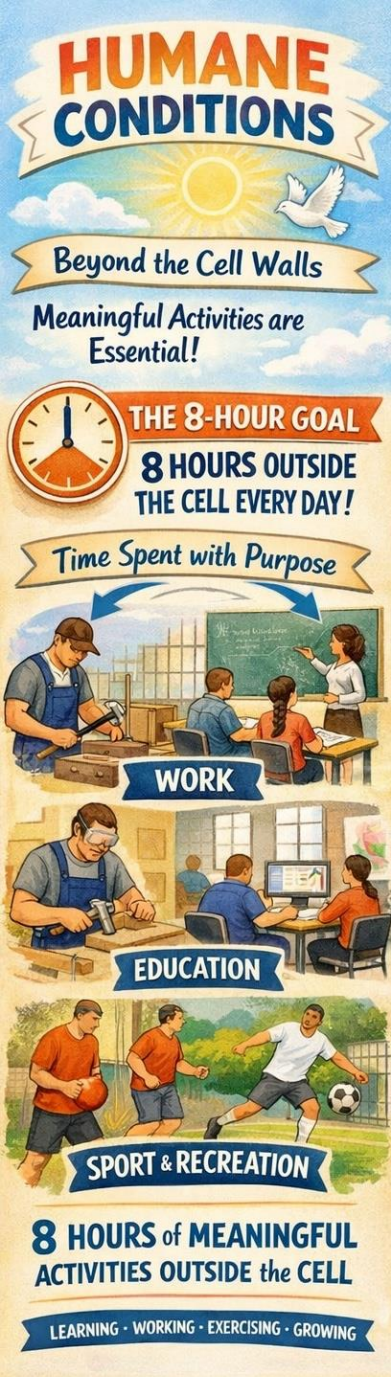
PHYSICAL EXERCISE AND OUTDOOR ACCESS

- **Impact of Confinement:**

- In *Moiseyev v. Russia*, the Court noted that restricted exercise conditions contributed to a level of suffering that exceeded the **"inevitable level"** inherent in imprisonment
- For convicted prisoners (as opposed to those in pre-trial remand), the conditions should be **even more favourable** reflecting the long-term nature of their detention

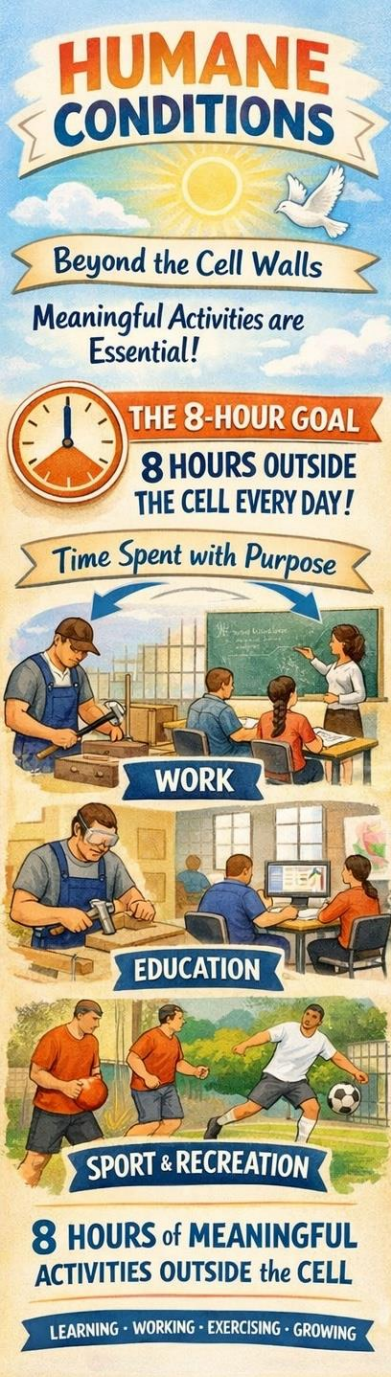
- **State Responsibility:**

- The authorities have a positive obligation to organize the prison regime so that exercise is a meaningful opportunity for movement
- Simply providing a small, walled-in box for an hour does not meet the "humane conditions" required under the Convention if it does not allow for actual physical exertion



OUTSIDE PRISON CELLS

- **“Humane conditions”** extend beyond the physical dimensions of a cell. A regime that offers no purposeful activity can be as damaging as poor material conditions.
- **The 8-Hour Goal:**
 - The CPT’s clear objective for both remand and convicted prisoners is that they should spend a **reasonable part of the day** — defined as **8 hours or more** — outside their cells
 - This time should be occupied by a varied program of activities, including work, education, vocational training, and sport
- **Diversity of Purposeful Activity:**
 - **Employment:** Work should ideally be **vocationally oriented**, providing prisoners with skills relevant to life after release
 - **Education:** Programs should be available to all, regardless of their legal status (pre-trial vs. convicted)
 - **Physical Culture:** Sport is not just recreation; it is a vital component of physical and mental health



OUTSIDE PRISON CELLS

- **Health and Safety in Prison Workshops:**

- Prisoners engaged in labour must be afforded the same **occupational health and safety** standards as workers in the outside world
- The CPT has specifically condemned the use of prisoners in **hazardous environments** (such as unventilated boiler rooms or welding workshops) without **Personal Protective Equipment**
- Failure to provide rubber boots, gloves, or electrical insulation for welders — leading to incidents such as electric shocks — is a severe breach of the duty of care

- **Institutional Responsibility for Program Development:**

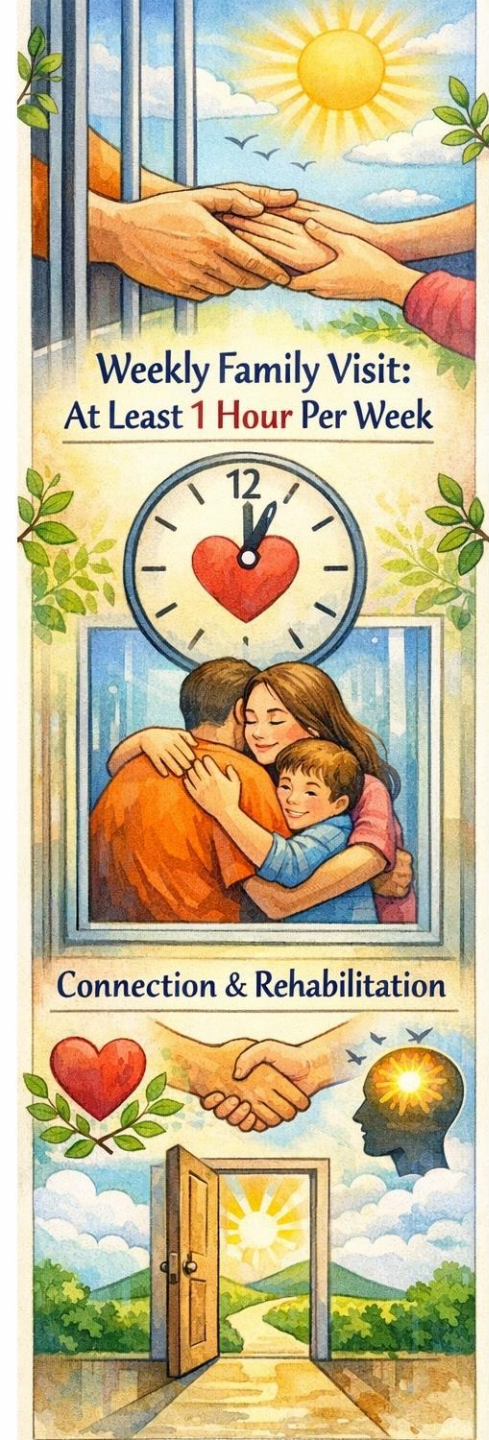
- Authorities are expected to "redouble efforts" to move beyond a purely custodial (lock-up) regime
- A lack of activities leads to "institutionalisation" and psychological deterioration, which can contribute to a finding of degrading treatment

- **Accessibility Regardless of Legal Status:**

- The CPT highlights that **remand prisoners** (those awaiting trial) are often the most neglected in terms of activities
- The Committee insists that the opportunity for out-of-cell time must be extended to everyone, as the presumption of innocence does not justify a more restrictive or idle regime than that of convicted prisoners

OUTSIDE WORLD

- Contact with family and friends not as a privilege to be granted, but as a **fundamental safeguard** against the "**social death**" and psychological erosion caused by imprisonment
- **The Weekly Visit Standard:** The CPT recommends that all prisoners, regardless of their security classification, should be entitled to family visits lasting **at least one hour per week**
 - These visits are considered the primary tool for successful **social rehabilitation** and maintaining the prisoner's mental health
- **Telephone Communication:**
 - Communication should be frequent and non-discriminatory
 - The CPT criticises regimes that allow calls only once every two weeks
 - Any disparity in phone access (e.g., between male and female prisoners) is discouraged; the goal is to increase the frequency of calls for **all detainees** to ensure consistent family bonds



OUTSIDE WORLD

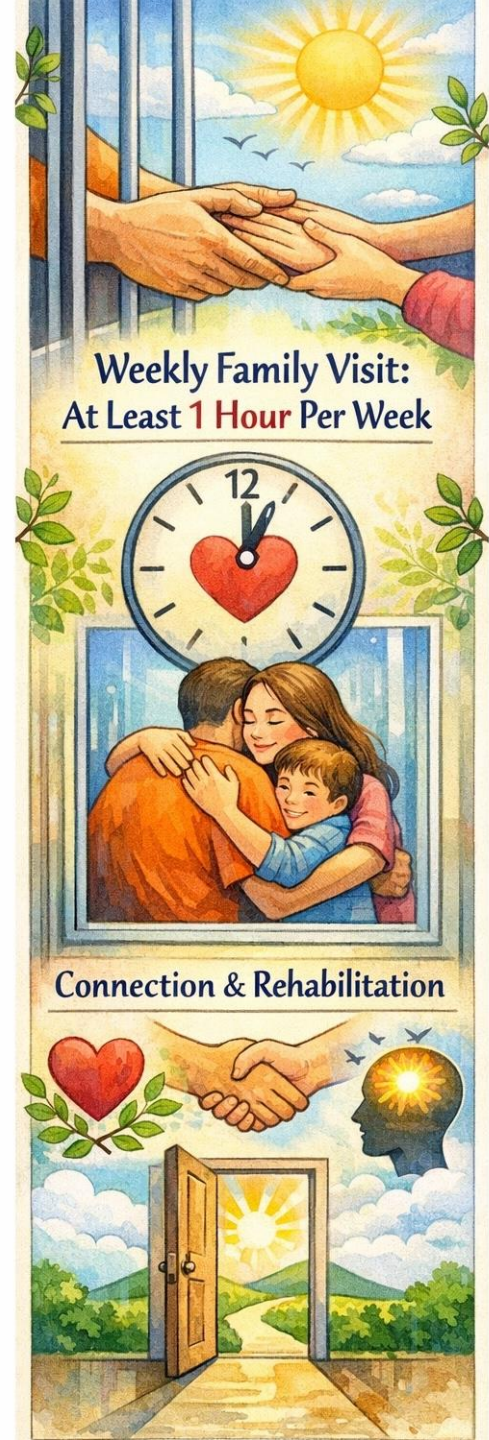
- **Strict Justification for Restrictions:**

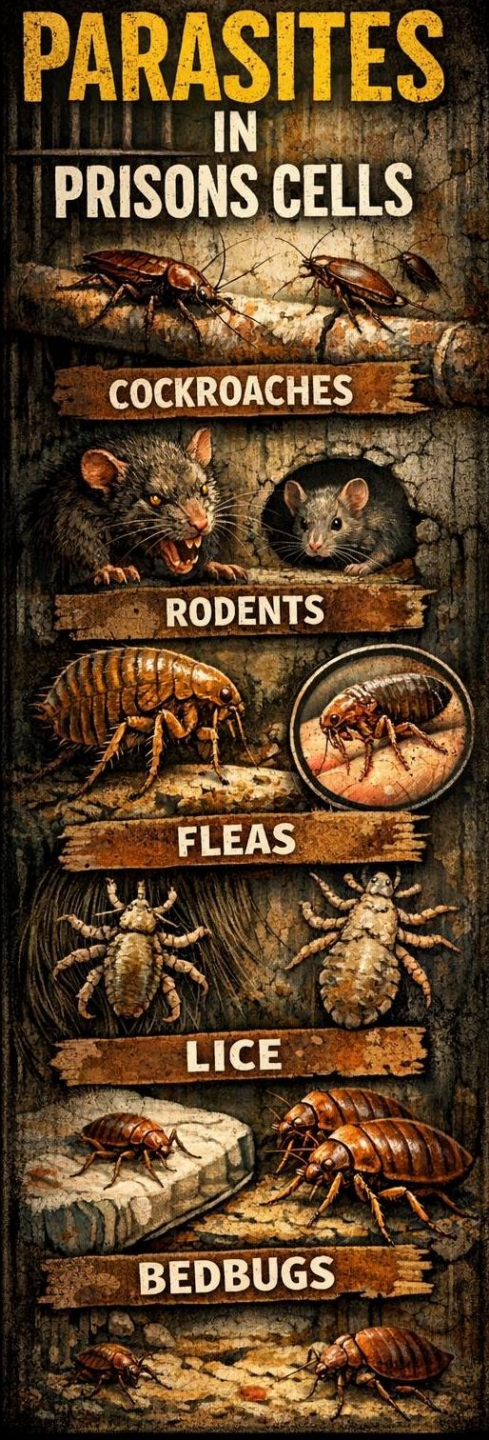
- Any decision to deny or restrict contact (visits, letters, or calls) must not be arbitrary
- Restrictions must be **specifically justified** by the needs of an ongoing investigation
- Decisions should require the approval of an **independent body** not involved in the case and must be applied for a **strictly defined period** with clearly stated reasons

- **Dignity in the Visiting Process:**

- The experience of the family is also a factor in humane treatment. The CPT recommends administrative improvements, such as **booking systems for visits**, to prevent families from having to wait in long queues outside prison gates, which can be humiliating and act as a deterrent to visiting

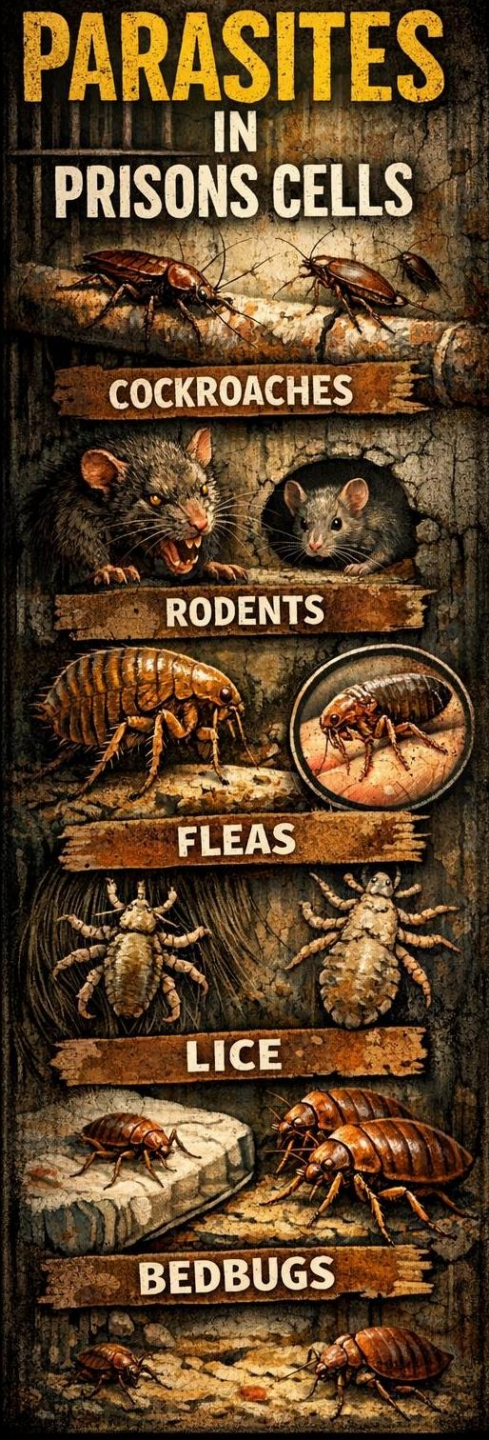
- **The "Genuine Right" Principle:** States must ensure that the right to contact is "genuine" and "practical," not just theoretical





PARASITES IN CELLS

- The presence of infestations as a major component of inadequate material conditions
- Allowing such environments to persist is often a decisive factor in ruling that detention constitutes **inhuman and degrading treatment** under **Article 3**
- **The Scope of Infestations:**
 - The presence of **cockroaches, rodents, fleas, lice, bedbugs, and other parasites** is a recognized violation of basic sanitary standards
 - Infestations are particularly grave when they affect **food storage areas** or sleeping quarters, as they pose direct risks to physical health and cause significant psychological distress



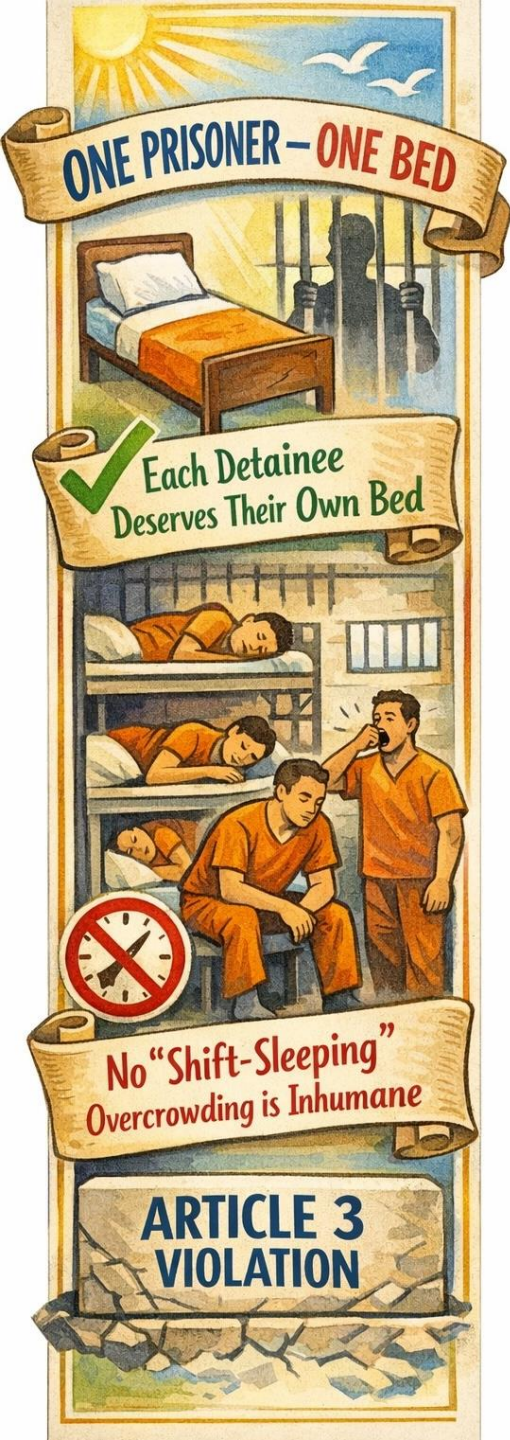
PARASITES IN CELLS

- **Threshold of Severity:**

- In the cases of *Neshkov v. Bulgaria* and *Ananyev v. Russia*, the Court noted that living in an infested environment contributes to a **"cumulative effect"** of suffering
- The CPT views persistent infestations as a sign of systemic neglect that strips a prisoner of their dignity

- **Impact on Human Dignity:**

- Being forced to sleep, eat, and live in close proximity to vermin is considered a form of treatment that humiliates the individual and breaks their moral resistance
- The State cannot cite a "lack of resources" as a valid excuse for failing to maintain a parasite-free environment



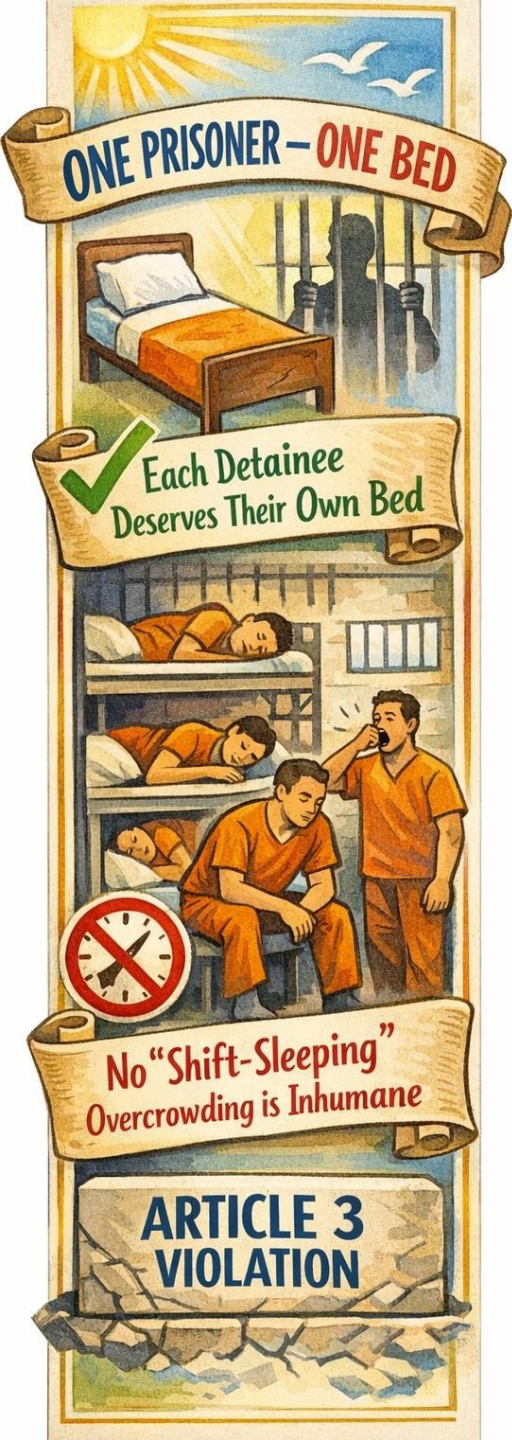
BEDS AND BED LINEN

- **The "One Prisoner – One Bed" Principle:**

- Every detainee must be provided with their own **separate and individual sleeping space** within the cell
- The Court has repeatedly found violations of **Article 3** in cases of "shift-sleeping," where prisoners are forced to take turns using a limited number of beds due to severe overcrowding

- **Adequate Bedding and Hygiene:**

- It is not enough to simply provide a bed frame; the State must ensure that the bedding meets basic hygiene requirements.
- Every newly arrived prisoner must be provided with **clean bed linen and a pillow**
- The administration has an ongoing duty to replace **worn-out or damaged mattresses** regularly to prevent physical discomfort and the spread of parasites



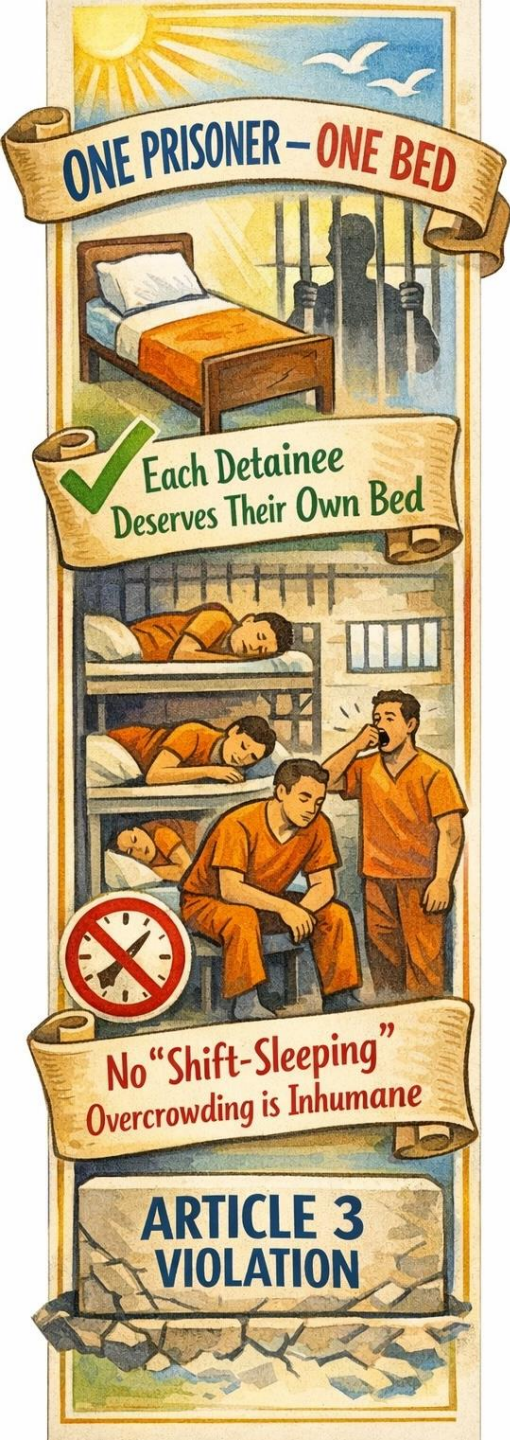
BEDS AND BED LINEN

- **Impact of Overcrowding:**

- Issues with bedding often surface as a symptom of broader overcrowding. However, the Court treats the lack of an individual bed as a specific and severe factor that contributes to a finding of **degrading treatment**

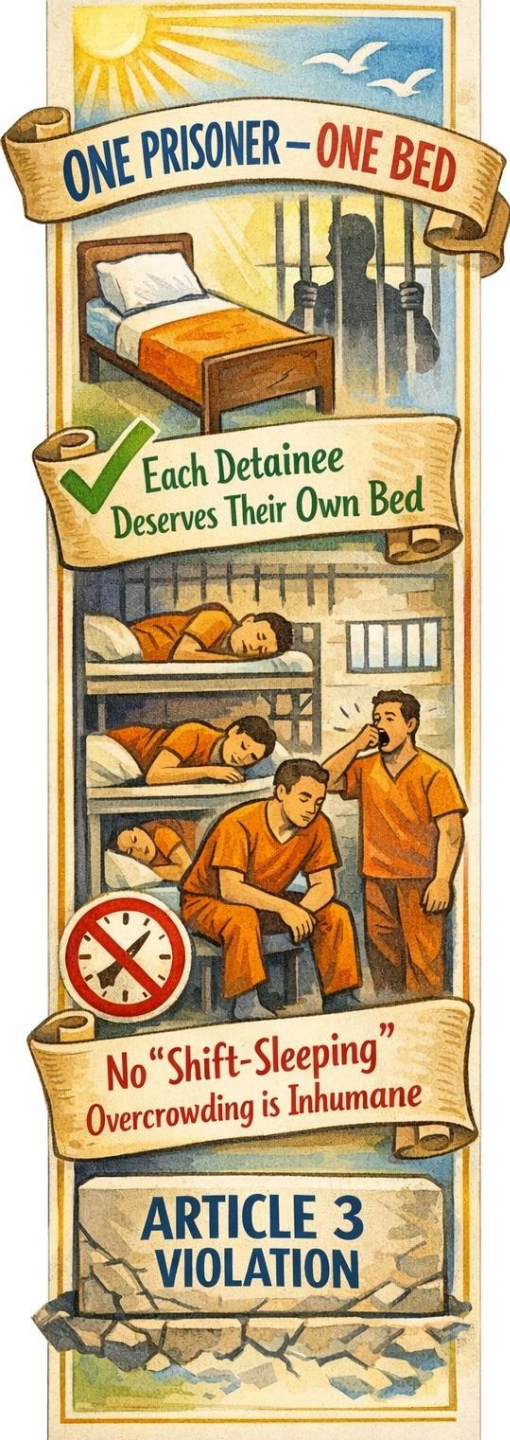
- **Dignity and Health:**

- Adequate sleep is essential for physical and psychological resilience. Forcing an individual to share a sleeping space or use unsanitary bedding is seen as a method of breaking a person's resistance and stripping them of their dignity



PRISONERS' NUTRITION

- The provision of adequate food and water is a non-negotiable duty of the State. Failure to meet these standards often constitutes a violation of **Article 3** (prohibition of inhuman or degrading treatment) and **Article 9** (freedom of religion)
- **Frequency and Timing:**
 - **Three Meals a Day:** This is the standard for a humane regime. A single meal per day is strictly prohibited and classified as a violation of Article 3
 - **Immediate Needs:** Failure to provide food and water within **24 hours** of a prisoner's arrival at a facility is a violation
 - **Evening Gaps:** The CPT recommends serving dinner later or providing an additional evening snack to prevent long periods of hunger overnight



PRISONERS' NUTRITION

- **Vulnerable Groups and Specific Contexts:**

- **Breastfeeding Mothers:** Providing adequate and enhanced nutrition is considered a "fundamental" requirement for incarcerated women who are breastfeeding
- **Transport to Court:** The duty to feed prisoners does not pause during transit; authorities must ensure nutrition is provided during long days spent in transport or court cells

- **Medical and Dietary Requirements:**

- **Health-Based Diets:** If a prisoner has a medical condition requiring a specific diet, the State **must** provide it. Financial difficulties are never a valid excuse for failing to provide medically necessary meals
- **Medical Oversight:** Food should be regularly inspected by prison doctors to ensure quality and caloric adequacy

PRISONERS' NUTRITION



- **Religious and Cultural Constraints:**

- **Adherence to Beliefs:** Providing food that complies with a prisoner's religious beliefs (e.g., Halal, Kosher, or vegetarian diets for religious reasons) is protected under Article 9
- **Expert Assessment:** If a prisoner claims a standard menu violates their beliefs or health, the authorities may be required to commission an expert to assess the menu and conduct a specific medical examination of the applicant

- **Quality and Inspection:**

- The Court generally finds no violation if food is served three times daily and is subject to regular quality inspections by competent state authorities and medical staff

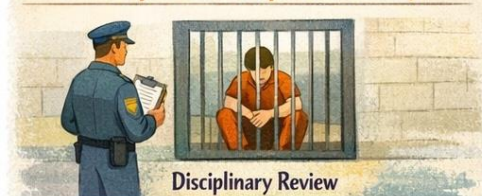
- **Summary of Prohibited Conduct:**

- Serving only one meal per day.
- Ignoring a doctor's recommendation for a therapeutic diet
- Failing to provide food/water within the first 24 hours of detention
- Forcing a prisoner to consume food that violates their deeply held religious convictions when alternatives are feasible

Maintain Order, Not Inhuman Treatment



Principle of Proportionality



Avoid Excessive Suffering

DISCIPLINARY SANCTIONS

- The State has a right to maintain order through disciplinary measures, but these sanctions must not cross the threshold into inhuman or degrading treatment
- **Permissible vs. Prohibited Sanctions:**
 - **Permissible:** Measures such as being held in less comfortable conditions, requirements to clean prison premises, or temporary restrictions on receiving parcels are generally not considered violations of **Article 3**
 - **Prohibited:** Using solitary confinement or disciplinary detention specifically as a **retaliation for lodging complaints** with authorities is a direct violation of the Convention
- **The Principle of Proportionality:**
 - The Court scrutinizes whether the administration chose the least restrictive measure possible.
 - When the most severe sanction — confinement in a disciplinary unit — is chosen, the State must demonstrate that it considered the **nature of the conduct**, the **prisoner's personality**, and their **disciplinary history** (e.g., whether it was a first-time offense)

Maintain Order, Not Inhuman Treatment



DISCIPLINARY SANCTIONS

• Conditions vs. Lawfulness:

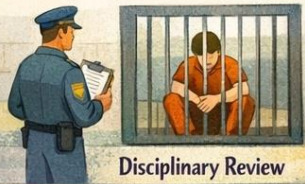
- Even if a disciplinary measure is "lawful" under national legislation, the **physical conditions** within the punishment cell must still meet Article 3 standards (e.g., adequate space, light, and temperature)
- The Court distinguishes between the *right* to punish and the *environment* in which that punishment is served. Disciplinary detention is not a "blank check" to bypass human rights protections regarding cell conditions

• Cumulative Impact:

- The severity of a disciplinary measure is assessed in conjunction with the length of the detention and the physical state of the cell. What might be a standard sanction for 24 hours could become "inhuman" if extended indefinitely or served in a cell lacking basic amenities



Principle of Proportionality



Disciplinary Review

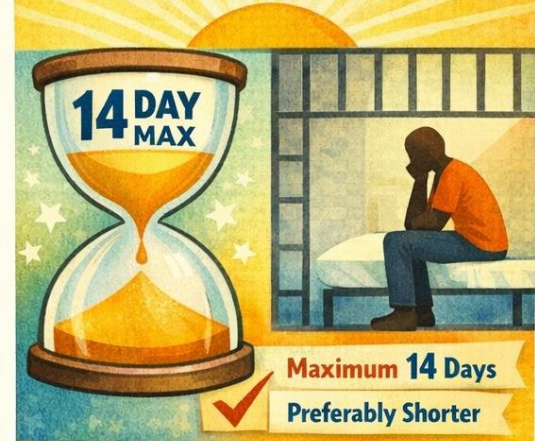
Least Restrictive Measure?



Balanced Sanctions

Avoid Excessive Suffering

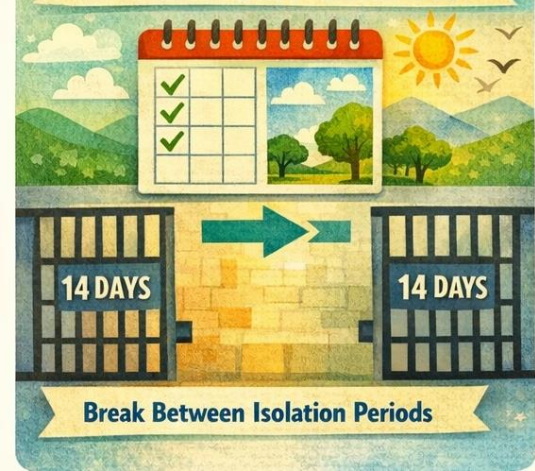
LIMIT SOLITARY CONFINEMENT



PROTECTED GROUPS



MANDATORY BREAKS



COMMITTEE STANDARDS

The CPT has established rigorous standards to ensure that disciplinary measures do not devolve into inhuman or degrading treatment. These standards focus on time limits, physical conditions, procedural fairness, and the preservation of human rights

Duration and Restrictions on Solitary Confinement

- **The 14-Day Limit:** The Committee considers any period exceeding **14 days** for a single offense to be excessive and potentially harmful to mental and physical health. It recommends a maximum of 14 days, with a preference for even shorter periods.
- **Prohibited Groups:** Disciplinary isolation should never be applied to pregnant women, mothers with infants (under age three), or juveniles. For juveniles, the Committee advocates for the **total abolition** of solitary confinement as a punishment
- **Mandatory Breaks:** If multiple offenses lead to a total isolation period exceeding 14 days, there must be a **break of several days** between segments of the punishment

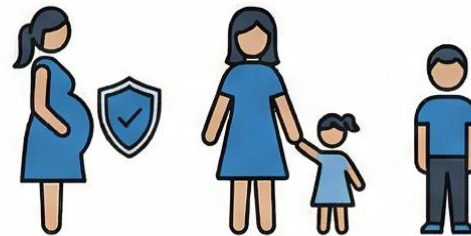
DURATION AND RESTRICTIONS ON SOLITARY CONFINEMENT (COMMITTEE GUIDELINES)

THE 14-DAY LIMIT



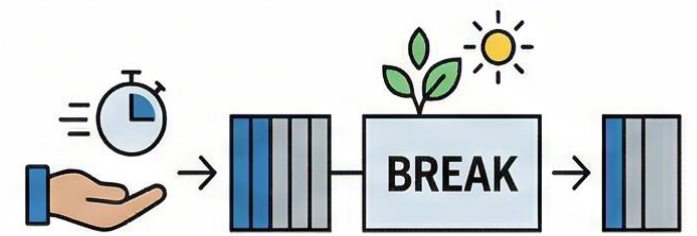
- Recommended **MAXIMUM** duration for a single offense: **14 DAYS**.
(A preference for shorter periods noted)
- Exceeding 14 days is excessive and **POTENTIALLY HARMFUL** to mental and physical health.

PROHIBITED GROUPS



- Disciplinary isolation should **NEVER** be applied to:
 - Pregnant women
 - Mothers with infants (under 3 years old)
 - Juveniles
- **TOTAL ABOLITION** advocated for juveniles as punishment.

MANDATORY BREAKS



- Multiple offenses Blocked days Several days
- If total isolation period (multiple offenses) exceeds 14 days, there must be a **BREAK OF SEVERAL DAYS** between segments of the punishment.

LIMIT SOLITARY CONFINEMENT



Maximum 14 Days
✓ Preferably Shorter

PROTECTED GROUPS



No Pregnant Women

No Mothers with Young Children

No Juveniles

MANDATORY BREAKS



14 DAYS

14 DAYS

Break Between Isolation Periods

COMMITTEE STANDARDS

- To maintain human dignity, cells used for punishment must meet specific material standards. Any cell failing these criteria should be enlarged or removed from service
- **Minimum Dimensions:** Cells must be at least **6 sq. m.** in size, excluding the space occupied by toilet facilities
- **Lighting and Communication:** Windows should allow for sufficient natural light (removal of extra metal bars if necessary), and cells must be equipped with adequate artificial lighting and a **functional call bell**
- **Furniture:** Cells must include appropriate seating, such as a chair or bench. Notably, the Committee suggests that beds should not be "made up" (prepared for sleep) during daytime hours to discourage total lethargy

Preservation of Rights & Outside Contact

Discipline must not sever legal protections or humanity



Family Contact Must Be Preserved.



Family Contact Must Be Preserved.



Procedural Safeguards — (Due Process) —

Right to Information

- ◆ Know the Charges

CHARGES?

Right to a Defense

- ◆ Legal Aid & Fair Hearing



Right to Appeal

- ◆ Right to Appeal Decision



Written Decision For Appeal



COMMITTEE STANDARDS

Preservation of Rights and Outside Contact

- Disciplinary sanctions are intended to maintain order, not to sever the prisoner's link to humanity or their legal protections
- **Family Contact:** Punishment must **never** result in a total ban on family contact. Restrictions on visits or calls should only be imposed if the specific disciplinary offense was related to that form of contact (e.g., smuggling contraband via a visitor)
- **Prohibition of Prolonged Suspension:** Under no circumstances should family visits be suspended for a "prolonged period," regardless of the offense

GENERAL SCHEME: PRESERVATION OF RIGHTS AND OUTSIDE CONTACT IN PRISONS

Based on international human rights standards.

DISCIPLINARY SANCTIONS PURPOSE



- TO MAINTAIN ORDER
- NOT TO SEVER PRISONER'S LINK TO HUMANITY OR LEGAL PROTECTIONS



FAMILY CONTACT PRESERVATION



- TOTAL BAN ON FAMILY CONTACT IS FORBIDDEN
- RESTRICTIONS ON VISITS OR CALLS ONLY FOR RELATED OFFENSES (e.g., smuggling contraband via visitor)



PROHIBITION OF PROLONGED SUSPENSION



- NO PROLONGED SUSPENSION OF FAMILY VISITS REGARDLESS OF THE OFFENSE
- MAINTAIN CONSISTENT, ONGOING CONNECTION



Preservation of Rights & Outside Contact

Discipline must not sever legal protections or humanity



Family Contact Must Be Preserved.



Family Contact Must Be Preserved.



Procedural Safeguards — (Due Process) —

Right to Information

- ♦ Know the Charges

CHARGES?

Right to a Defense

- ♦ Legal Aid & Fair Hearing



Right to Appeal

- ♦ Right to Appeal Decision



Written Decision For Appeal



COMMITTEE STANDARDS

Procedural Safeguards (Due Process)

- A prisoner facing disciplinary charges is entitled to formal "fair trial" protections within the penal system
- **Right to Information:** The prisoner must be informed of the charges immediately and in a language they understand
- **Right to a Defense:** This includes sufficient time to prepare, the right to **legal assistance**, the right to be heard in person, and the right to call and cross-examine witnesses
- **Right to Appeal:** The decision must be provided in writing, clearly outlining the reasons for the punishment and the formal procedure for appealing the decision



Dr. Dmytro Yagunov

Attorney at Law, D.Sc. in Political Science,
Ph.D. in Public Administration,
MSSc in Criminal Justice,
Associate Professor, Merited Lawyer of Ukraine

Eberhard Karls University Tübingen

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www.yagunov.in.ua



+38 068 176 76 26

