

# PUBLIC SUBMISSION

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## General Comment

It is a mistake to create a category of "rogue officials" whose actions can be deemed not to represent the government employing the, and it is a mistake to exclude gangsters from the class of potential persecutors for purposes of granting asylum or withholding of removal under the Convention Against Torture. Both are at odds with the reality of political power in much of world and throughout much of history, including the countries to our south from which asylum-seekers are now fleeing.

If an organization is armed, and controls through arms who may come and go and what they may do in a region, and if the state internationally recognized as sovereign over that region tolerates this control, then the armed organization should be considered as governing the region, and any torture or persecution in which it is engaged should be treated as equivalent to that undertaken by government officials.

Here is why.

Beyond the protection of the threatened individuals, our asylum laws and the CAT serve a foreign policy function. The persecuted who are given protection can speak of what happened to them, and of the issues that caused them to be persecuted or tortured in the first place. They can be heard in their home countries. They sometimes organize governments in exile, and sometime they depose the governments from which they fled. The asylum systems thus exerts a mild pressure against the perpetuation of governments disdainful of human rights; or, to say almost the same, a mild pressure in favor of republican governments that respect the rule of law. We

have long desired that such governments rule everywhere, both from human sympathy and to enhance our own chances of surviving in the age of nuclear and biological weapons.

Oppressive governments, of course, do not want their victims in exile making speeches. They want them home, visibly harmed as examples to anyone else who might think of rebelling. Therefore, if oppressive governments can cover up their torture and persecution with a pretense that it is being done by rogue officials or criminal gangs, and thereby undermine the asylum cases of their victims, they will do so.

I would not accuse any individual regime of being like this without a great deal of compelling evidence. But I am fairly sure that somewhere in this hemisphere there is already a place actually governed by armed forces that grew strong through trafficking narcotics, who persecute and torture routinely, and who find it convenient to maintain a pretense of legal government.

I therefore urge that the proposed redefinition of "public official" and related changes that would require us to accept such pretense be rejected.