

# Them and us: fighting discrimination and preventing torture

First published 2001

by Amnesty International Publications

1 Easton Street,  
London WC1X 0DW,  
United Kingdom  
www.amnesty.org

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ISBN: 0 86210 306 1

AI Index: ACT 70/002/2001

Original language: English

Printed by Greenshires, Kettering, Northants, United Kingdom

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On a daily basis, discrimination manifests itself through violence, whether in the form of violence against women, or racist or homophobic hate crimes. Governments cannot be selective in fulfilling their obligations. They have a responsibility to combat discrimination and to strive to stop torture and ill-treatment for everyone. Amnesty International calls on them to do so.

Amnesty international calls on all governments to:

- ratify international and regional treaties which seek to strengthen protection against torture or ill-treatment of particular groups and bring their laws into line with these treaties;
- repeal laws which breach the fundamental principle of non-discrimination, and make the principle of non-discrimination a reality in practice as well as law;
- ensure that torture is expressly prohibited in law, in line with international standards;
- ensure that torture and abuses by private individuals are fully addressed in practice so that those responsible are brought to justice, and ensure adequate reparation for the victims.

[end]

[inside back cover]

## What you can do

Add your voice to Amnesty International's campaign against torture. Help us to make a difference. Contact your national office of Amnesty International and ask for information about how to join the campaign.

- Become a member of Amnesty International.
- Make a donation to support Amnesty International's work

## Campaigning Online

The website [www.stoptorture.org](http://www.stoptorture.org) allows visitors to access Amnesty International's information about torture. It will also offer the opportunity to appeal on behalf of individuals at risk of being tortured. Those registering onto the site will receive urgent e-mail messages alerting them to take action during the campaign.

- Register to take action against torture at [www.stoptorture.org](http://www.stoptorture.org)

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## **Them and us: fighting discrimination and preventing torture**

*“The manner in which discrimination is experienced on grounds of race or sex or religion or disability varies considerably — there is difference in difference. The commonality that unites them all is the injury to dignity imposed upon people as a consequence of their belonging to certain groups...”*

Justice Albie Sachs, Constitutional Court of South Africa, 1998

Discrimination is an assault on the very notion of human rights. It systematically denies certain people or groups their full human rights just because of who they are or what they believe. It dehumanizes, leaving its victims vulnerable to other human rights abuses. After all, if they are less than human, how can they have human rights? It paves the way for torture by severing the bonds of human sympathy.

*“The fear, loathing, hatred and ignorance culminating in these bombings is a warning to society and the world as a whole that racism, prejudice, homophobia and fear of difference is out there and we should all challenge it at every opportunity.”*

Gary Reid, a survivor of a 1999 nail-bomb explosion in a gay bar in London, United Kingdom, which killed three people and injured dozens of others. Two earlier bombs had exploded in parts of London where a significant part of the population is black or of Asian origin. The bombings revealed the often interrelated nature of discrimination based on identity. At his trial the man responsible for all three bombs, a neo-Nazi sympathizer, explained why he had selected the three sites: “First of all it was gonna be the blacks, then the Asians, then queers.” He was sentenced to life imprisonment. Discrimination heightens the vulnerability of certain groups to torture by state officials in different ways. Discrimination enshrined in law — for example, where the law criminalizes homosexuality or restricts women’s fundamental freedoms — can act as a licence to torture by stripping a sector of the population of their full rights.

Discrimination in law enforcement can mean that certain groups are viewed by the authorities as “potential criminals” and so are more likely to be arrested and imprisoned. It can also mean that they are more likely to suffer torture or ill-treatment once in the hands of the criminal justice system. The victim’s identity or status may also affect the nature and consequences of their ill-treatment — for example, children held with adults in custody are particularly vulnerable to rape and sexual violence.

[Box text]

Prohibition of discrimination is at the heart of each of the main United Nations (UN) human rights instruments dealing with the administration of justice. Among such key instruments are: the International Covenant on Civil and Political Rights; the UN Basic Principles for the Treatment of Prisoners; the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; the Convention on the Rights of the Child; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

[End box]

Discrimination means that certain groups are denied equal protection of the law against violence inflicted on them, such as racist attacks, domestic violence and homophobic hate crimes. These violent manifestations of prejudice are often facilitated by official inaction. Bringing those responsible for torture to justice and providing reparations to the victims are key elements in the battle to eradicate torture. By obstructing the course of justice, discrimination reinforces the impunity of abusers because it sends them a clear message that they will get away with it, especially if they torture people from despised social, political or ethnic groups who will not be listened to, believed or defended by society at large.

Under international human rights law governments are obliged to tackle discrimination in all its forms. They must take essential measures to ensure the right of all to be free from torture and ill-treatment. They must repeal discriminatory legislation which facilitates torture and denies equal access to justice. They must provide effective protection against violence in the broader community. The laws and institutions of the state must address the root causes of discrimination, rather than replicating or fomenting it for political ends.

[Box text]

“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

(International Covenant on Civil and Political Rights, Article 2(1))

[End box]

[Box text]

“For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting

in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

(UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1(1))

[end box]

Torture is prohibited in numerous international standards. The prohibition is absolute and applies in all circumstances. There can be no justification for torture, and states are obliged to prosecute those suspected of ordering or committing acts of torture.

Torturers should always be held accountable, no matter where they are, no matter who they are, no matter how much time has passed since they carried out their crimes.

The right not to suffer racial discrimination is a fundamental principle of international human rights law. The principle appears in virtually every major human rights instrument as well as in the UN Charter. Yet every day in every region of the world this right is being violated. In recent conflicts with an ethnic dimension in Africa, Asia and Eastern Europe, rape, mutilation and other forms of torture have been used as weapons of war. According to Amnesty International’s research, many if not most of the victims of police brutality in Europe and the USA are black or members of other ethnic minorities. In the Americas, torture and ill-treatment of indigenous people, especially in the context of land rights disputes, is a continuing legacy of centuries of subjugation.

Torture and ill-treatment at the hands of government forces are part of a much broader pattern of violence inflicted on people for reasons of racism, xenophobia or ethnic hatred. States have an obligation to prevent racial violence by everyone, not just their own officials. Yet in many countries racist ill-treatment is nourished by increasingly xenophobic responses to immigration, discrimination in the criminal justice system, and the resurgence of armed conflicts with an ethnic dimension. Immigrants, migrant workers and asylum-seekers who have left their homes in search of a life with basic dignity often face racist and xenophobic ill-treatment in the country where they seek refuge. Harsh treatment of migrants appears to be an increasingly common component of official immigration policy, particularly in countries where xenophobic sentiment has been inflamed among the wider population.

[box text]

“In this Convention, the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” (International Convention on the Elimination of All Forms of Racial Discrimination, Article 1(1))

[end box]

[box text]

“For the purposes of the present Convention, the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” (Convention on the Elimination of All Forms of Discrimination against Women, Article 1)

[end box]

Around the world, persecuted communities have organized themselves to defend their rights. Campaigns to raise awareness about racism and to oppose it, to expose miscarriages of justice and to assert the rights of minorities and asylum-seekers have brought success. They have resulted in the release of prisoners wrongfully convicted and have forced governments to repeal discriminatory laws. The solidarity and support offered by human rights organizations can help to give encouragement to groups who are at risk and defending their rights.

Discrimination against women often takes violent forms. From infancy girls are at risk of physical, sexual and psychological abuse in such forms as selective malnutrition, denial of equal access to medical care, bonded labour and sexual abuse within the family. Women are raped by armed forces as “spoils of war”. They are attacked and sometimes killed in the name of “honour” and terrorized through other forms of domestic violence. Whether inflicted during armed conflict, in custody, in the community or in the home, this violence is intimately linked to women’s subordinate position in society. Sometimes the perpetrators are state officials. But much of the violence faced by women in everyday life is at the hands of men known to them as employers, family members or neighbours.

Many forms of violence against women in the home and in the community may also constitute torture. The effects of violence and torture are physically and psychologically devastating, whether inflicted by private individuals or agents of the state. The perpetrator may not be a state official, but state inaction is a major factor allowing violence against women to continue. Whatever the context, governments are responsible for protecting and ensuring women’s right to be free from torture or cruel, inhuman or degrading treatment. Yet discriminatory laws or attitudes within the criminal justice system can result in women being denied their fundamental human rights. In some countries, abuses such as domestic violence and other violence against women are not criminalized in law. Even where such crimes are recognized in law, law enforcement and judicial authorities frequently fail to act to prevent and punish these crimes, even though they have a legal duty to do so.

Women’s groups and other human rights activists around the globe have fought courageously in recent decades to prevent and combat abuses and to win greater equality for women. In many countries they have achieved enormous advances. On an international level they have altered the terms of the human rights debate irrevocably. However, for all the gains that women around the world have made in asserting their rights, pervasive discrimination continues to deny women full political and economic equality with men.

Dozens of countries still have laws which criminalize homosexuality. Such discriminatory laws not only deprive a sector of the population of basic human rights, they may also act as a licence to torture or ill-treat those detained. By institutionalizing discrimination such laws can act as an official incitement to violence against lesbian, gay, bisexual and transgender (LGBT) people in the community as a whole. However, torture and ill-treatment is not limited to countries where homosexuality is illegal. Institutionalized prejudice means that lesbians, bisexuals, gay men and transgender people who come into contact with the law for other reasons may be targeted for abuse, in particular rape and other sexual violence.

[box text]

“The term ‘discrimination’ ... should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of

nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.”

(General Comment 18, Human Rights Committee, an expert body that monitors states’ compliance with the International Covenant on Civil and Political Rights)

The Human Rights Committee has urged states not only to repeal laws criminalizing homosexuality but also to enshrine the prohibition of discrimination based on sexual orientation into their constitutions or other fundamental laws.

[end box]

Torture and ill-treatment by state officials is only the tip of the iceberg of violence targeted against LGBT people. For many, the most common experience of violence will be in their homes, schools and places of work or on the street. While the perpetrators and settings of such abuses may vary, at the heart of all forms of homophobic violence are ignorance and prejudice within society, official discrimination and repression, and the impunity enjoyed by those responsible.

The stigma surrounding homosexuality in many cultures means that those speaking out against the torture or ill-treatment of LGBT people are often ignored, further marginalized or abused. Official acquiescence allows violence against LGBT people to thrive hidden behind a veil of silence and indifference; this has been especially true of violence against women. While some governments seek to deny that such torture takes place — or even that homosexuals exist in their countries — others openly justify it in the name of morality, religion or ideology. Either way, the effect is that torture goes unchallenged and a sector of the population is left particularly vulnerable.

However, a vocal and vibrant movement has now emerged around the world to break the conspiracy of silence surrounding discrimination and violence against lesbians, gay men and bisexual and transgender people. It is challenging the rhetoric of governments who seek to deny that same-sex sexual identity or behaviour exist in all cultures. In the words of Indian gay rights activist Ashok Row Kavi, “we are truly international and we are truly a planetary minority”.

Children are entitled to special protection; their youth and inexperience renders them particularly vulnerable, and certain forms of treatment — such as solitary confinement — may have a more severe impact on a child than on an adult. Additional safeguards are therefore needed — and are provided in a range of international standards — to protect children. Yet violence against children is endemic: children are tortured by the police or security forces; detained in appalling conditions; beaten or sexually abused by parents, teachers or employers; maimed, killed or turned into killers by war.

[box text]

“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.” (Convention on the Rights of the Child, Article 19(1))

[end box]

One of the aims of torture is often to make the victim feel helpless and disempowered; there can be few easier targets than a child or adolescent from a marginalized group. Some children are victims many times over, first of the chronic poverty and discrimination that renders them vulnerable to torture and ill-treatment, then to the injustice and impunity that allows torture to continue unpunished.

One of the strands that unites all children who have been tortured or ill-treated is the almost complete impunity enjoyed by their abusers. Amnesty International and other human rights organizations have documented a substantial number of cases concerning abuses by agents of the state against children. But the vast majority of cases go unreported. Children rarely have adequate means of protecting themselves or seeking redress. They are unlikely to be confident or articulate enough to maintain their allegations against adults and against the powers of the adult world. Many victims remain quiet because they have been threatened with further violence to themselves or their families if they tell anyone what has happened. In many cases children who allege that they have been tortured or ill-treated are not taken seriously. Assumptions about the unreliability of children as witnesses frequently lead to their complaints or request for help being disbelieved or ignored. Children may not know their rights, and even if they do know them, are less likely to have access to a lawyer or to be in contact with someone willing to make the matter public, much less take it to the national or international level. The result is that one of the most vulnerable groups in society is often left largely unprotected from gross abuses of adult power.

### Captions

An elderly Indo-Fijian couple outside their home in Fiji, which had been attacked during violence targeted against Indo-Fijians following an attempted coup in May 2000. During and after the coup crisis, there were reports of police complicity in some of the many attacks on Indo-Fijians and of widespread beatings and hostage-taking by indigenous Fijians. By November 2000 all indigenous Fijians arrested for violence against Indo-Fijians had been released and no one was known to have been convicted of any coup-related human rights violations. Since May 2000 existing racial segregation has been extended. The military-backed government installed after the coup attempt has been pursuing racially discriminatory policies in favour of indigenous Fijians, despite two court rulings upholding the country's 1997 Constitution which prohibits discrimination.

Frederick Mason, a 31-year-old nurse's assistant, was arrested in Chicago, USA, in July 2000 after an argument with his landlord. According to witnesses, Frederick Mason entered the police station in good health. However, by the time he was released blood was streaming from his rectum. He was reportedly sodomized by a police officer; another officer walked away during the assault. Frederick Mason contends that he was subjected to abuse — including racist and anti-gay insults such as “nigger fag” — from the moment he was arrested.

Anastazia Balá\_ova's sister-in-law holds her bloodstained nightdress. On 20 August 2000, three men broke into a Romani home in Zilina, northern Slovakia, and beat Anastazia Balá\_ova and her daughters with baseball bats. Anastazia died three days later and two of the children were injured. Although the authorities reacted promptly in this case, the failure of the state to protect victims of anti-Romani violence and to prosecute those responsible has contributed to an atmosphere in which racist violence against Roma by skinhead gangs has spread.

Dalit women at a public hearing on violence against members of the dalit community held in Chennai, India, in 1998. (Dalit literally means “broken people”, a term used to describe members of the Scheduled Castes, formerly known as “untouchables.”) Dalits are a disadvantaged social group, and violence against dalit women is common.

Kajal Khidr, who was pregnant at the time, was detained by her husband's relatives in 1996 in Iraqi Kurdistan. They accused her of extra-marital sex, cut off her nose, and said they would kill her after her child was born. She escaped following hospital treatment and found protection in a women's refuge in the city of Sulaimaniya. With the help of human rights activists Kajal Khidr escaped abroad and was granted asylum.

“For years we have been working on building [our] right to full citizenship. We want the state to respect our right to an identity; we don’t want to be marginalised from our homes and our schools, or to be condemned to prostitution, where we are subjected to the worst abuses. Many of our compañeras have been beaten to death in police stations and no one cries out or defends them.” Lohana Berkins, Argentine transgender rights activist

(Above) A lesbian, gay, bisexual and transgender rights march in Cape Town, South Africa, in 1993. In 1998 the South African Constitutional Court ruled that laws criminalizing sodomy (referring to consensual sex between men) violated the rights to equality, dignity and privacy enshrined in the post-apartheid Constitution.

(Right) Poliyana Mangwiro and Keith Goddard of Gays and Lesbians of Zimbabwe (GALZ). GALZ members have faced harassment, including threats of violence and criminal prosecution, for their work in defence of the human rights of lesbian and gay Zimbabweans.

Children pray before lunch at a São Paulo juvenile offenders’ home in Brazil. Systematic torture, extreme overcrowding and appalling conditions have brought the juvenile detention system in São Paulo to near collapse.

In most countries, juvenile criminal suspects tend to come from the poorest or marginalized sectors of society, and discrimination against such groups often contributes to the lack of action against their torture or ill-treatment.

(Left) Children at this Unaccompanied Children’s Centre in Rwanda undergo role-play therapy to help them overcome the trauma of conflict. As many as one million Rwandans, mainly from the minority Tutsi ethnic group, were killed in the 1994 genocide. The massacres were systematic, planned and condoned at the highest level and followed a concerted campaign to incite members of the majority Hutu ethnic group against the Tutsi.

The effects of living through armed conflict, of witnessing such death and destruction, can have a much more profound impact on the body and mind of a developing child than on an adult. Moreover, in some situations of armed conflict children are singled out for attack precisely because they represent the real and psychological future of their communities.

(Right) Chechen refugees at a makeshift kitchen in Karabulak Camp, Republic of Ingushetia, July 2000. Russian government forces have cast the net of suspicion over a whole ethnic group in the context of the conflict in Chechnya. Ethnic Chechens and other people from the Caucasus have been arbitrarily detained, ill-treated and tortured in Moscow and other parts of the Russian Federation. Within Chechnya itself, Russian forces have detained people at roadblocks, often while carrying out identity checks on civilian convoys fleeing to Ingushetia. Witnesses say that children as young as 10 have been detained on suspicion of belonging to armed Chechen groups and sent to “filtration” camps. The testimonies of survivors confirm that the men, women and children held in these camps are routinely and systematically tortured. More than 200,000 Chechens have fled into neighbouring Ingushetia.

