

**DISCRIMINATION:
FERTILE GROUND FOR TORTURE**

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 is an attack on the fundamental principle underlying the Universal Declaration of Human Rights: that human rights are everyone's birthright and apply to all without distinction. The right to be free from torture is absolute. It cannot be denied to anyone in any circumstances.

Torture feeds off discrimination. All torture involves the dehumanization of the victim, the severing of all bonds of human sympathy between the torturer and the tortured. This process of dehumanization is made easier if the victim is from a despised social, political or ethnic group. Discrimination paves the way for torture by allowing the victim to be seen not as human but as an object, who can, therefore, be treated inhumanely.

Discrimination against certain groups heightens their vulnerability to torture by state officials in a number of 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. Discriminatory enforcement of laws may also affect both a person's chances of coming into contact with the criminal justice system and their treatment once in its hands. For example, in some countries, black people are often still far more likely than whites to be detained and ill-treated on police "stop and search" patrols.

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. Victims from marginalized groups may also have less access to legal remedies. Discrimination reinforces impunity, lessening the likelihood of any official action in cases of torture.

Discrimination also means that certain groups are denied equal protection of the law against violence inflicted on them in society at large, such as racist attacks, domestic violence against women and homophobic hate crimes. These violent manifestations of prejudice are often facilitated by official inaction.

Governments are obliged under international human rights standards to tackle discrimination in all its forms. This includes taking essential measures to ensure the right of all to be free from torture and ill-treatment, such as repealing discriminatory legislation which facilitates torture and denies equal access to justice, and providing effective protection against violence in the broader community. It also means ensuring that the laws and institutions of the state address the root causes of discrimination, rather than replicating or fomenting it for political ends.

Torture and sexual identity

The following section focuses on torture of lesbian, gay, bisexual and transgendered (LGBT) people as a specific group of victims of torture today. **"Take a step to stamp out torture"**, the launch report of AI's campaign against torture, of which this is an extract, also focuses on racism and torture, torture of children and torture of women. It highlights some of the patterns AI has identified in the course of its work and the role that discrimination plays in perpetuating them. In focusing on these groups, AI does not imply that these are the sole or principal victims of torture, or that the experiences suffered by other victims are of less concern. Nor should the categorization disguise the fact that different forms of discrimination are interlinked. The identity of every human being is complex, and cannot be reduced to one sole factor such as race, ethnicity, gender, sexual orientation or class.

The aim is to identify patterns of abuse directed at some of today's victims, the particular contexts in which they are at risk, and the forms of ill-treatment which are in some way specific to them or affect them disproportionately. This analysis helps to identify measures needed to overcome these risks.

Discrimination

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

Human Rights Committee, General Comment 18

Torture and sexual identity

In Uganda, being lesbian or gay is a crime punishable by life imprisonment. In September 1999 President Yoweri Museveni publicly ordered the police to look for homosexuals, lock them up and charge them. The following month, five people were arrested at a meeting in Kampala by army and police officers. They were accused of being homosexual and held in illegal detention centres, army barracks and police stations for up to two weeks before being released without charge. All five were tortured. One of those arrested said “they tortured me by kicking me on my stomach and slapping my face until it bled. I was made to sleep in a small toilet that was so dirty as it was the only toilet used by all the inmates. The next day I was told to clean the toilet for one week, twice a day, using my bare hands.” A number of Ugandans fled the country fearing arrest. In November 1999 President Museveni denied any anti-gay persecution. Homosexuals could live in Uganda, he said, as long as they kept their sexual orientation hidden.

The torture of lesbian, gay, bisexual and transgendered people around the world is concealed behind a veil of secrecy and taboo. It is a worldwide problem – AI has documented numerous cases from every continent – but one that is greatly under-reported. The stigma surrounding homosexuality in many cultures means that those speaking out are often ignored, further marginalized or abused. 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.

Discrimination by law

Dozens of countries outlaw homosexuality. Criminalization of homosexuality can lead to non- heterosexuals being arrested and imprisoned simply for having private consensual relationships, meeting friends socially or even “looking gay”. Those detained may be tortured or ill-treated to force them to confess to their “crime” or as punishment for it.

The criminalization of homosexuality in Romania has for many years been a fertile ground for torture. In 1992, Ciprian Cucu placed a personal advertisement in a local Romanian newspaper, which was answered by Marian Mutascu. The young men lived together for almost two months, hiding their relationship from family members. Eventually, however, Ciprian Cucu's family reported their relationship to the police. They were arrested in 1993 under penal code provisions prohibiting homosexual relations. Both were tortured in police custody. Ciprian Cucu recalls:

“I was taken to the pre-trial detention ward... Before I came into the cell, officers told the supervising inmate [delegated by prison guards to maintain order in the cell] that a homosexual was going to be put in the room. As a result, he told me from the very start that I had to have sex with him

if I did not want things to go very badly. At first I resisted, but after a few blows, I was forced to give in. It was the first time I was raped – but not the last.”

The two were convicted and received suspended prison sentences. Despite international appeals on their behalf, there was no investigation into their torture. Marian Mutascu never recovered from the experience. In 1995, he committed suicide.

In Malaysia, where “sodomy” is a criminal offence, accusations of homosexuality have been used as a pretext to imprison political opponents. Former Deputy Prime Minister Anwar Ibrahim was dismissed and accused of “sodomy” in 1998. He was beaten by police while in incommunicado detention in September 1998. Following widespread protests at this high profile case, a former national police chief was sentenced in March 2000 to two months in prison for the beating. Several close associates of Anwar Ibrahim were forced under torture to “confess” to having had sexual relations with him. Two men who lodged formal complaints about their treatment – which included being stripped naked and forced to simulate the sexual acts they were accused of – were subsequently charged with perjury. Despite testimony that he had been tortured, the confession of one of these men, Sukma Darmawan, was admitted as evidence in the sodomy trial of Anwar Ibrahim. Anwar Ibrahim and Sukma Darmawan were convicted of “sodomy” in August 2000. Anwar Ibrahim was sentenced to nine years in prison. Sukma Darmawan was sentenced to six years’ imprisonment and four strokes of the cane.

In other countries too, judicial corporal punishment amounting to torture or ill-treatment is applied by law as a sanction for certain forms of sexual behaviour, including homosexual acts. On 16 April 2000, Associated Press reported that a Saudi Arabian court had sentenced nine young men to prison sentences and up to 2,600 lashes each for “deviant sexual behaviour”, apparently because of their sexual identity.

As these examples illustrate, laws criminalizing homosexuality 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. AI campaigns against such laws and considers those imprisoned solely on grounds of sexual orientation to be prisoners of conscience.

Institutionalized prejudice

Torture and ill-treatment is not limited to countries where homosexuality is illegal. Institutionalized prejudice means that lesbians, bisexuals, gay men and transgendered people who come into contact with the law for other reasons may be targeted for abuse, in particular rape and other sexual violence.

Marli Jose da Silva Barbosa and Rosana Lage Ligerio, a lesbian couple, were arrested by civil police in Pernambuco, Brazil, in connection with a murder inquiry in June 1996. Both women alleged that they were verbally abused because of their sexual orientation, slapped and beaten with a long strip of rubber cut from a car tyre. The police chief and another officer rubbed their penises in Marli’s face while she was handcuffed and threatened to remove her underwear “so that you can learn to be a proper woman”. Rosana was made to strip by the policemen who had threatened to rape Marli. He pulled her hair and rubbed his penis in her face. Once in prison, their injuries were noted by staff but the women refused a medical examination as it would have meant being escorted by the policemen who had tortured them. Despite a national campaign for the torture allegations to be fully investigated, no action has been taken to date against the policemen involved.

Lesbian, gay, bisexual and transgendered people in prison often find themselves on the lowest rung in the prison hierarchy. In Jamaica, 16 prisoners were killed and 40 injured in anti-gay attacks at St Catherine’s District Prison and Kingston’s General Penitentiary in August 1997. The disturbances started after the Commissioner of Corrections announced his intention to distribute condoms to guards and prisoners in an effort to control the spread of HIV/AIDS. Guards walked out in protest at the

insinuation that they were having homosexual relations with inmates (same sex relations are illegal in Jamaica). Inmates went on the rampage, targeting prisoners thought to be gay. No action is known to have been taken against the prison authorities.

Torture and ill-treatment are not limited to prison or police custody. Ill-treatment may also occur during raids on bars or other public meeting places. Rebecca Sevilla, a human rights defender from Peru, recalls a raid on bars and clubs in Lima in 1994: "...a very violent raid was carried out in the capital where about 75 lesbian women were beaten up and ill-treated by the police. Prostitutes get a very rough time in jail. But the treatment of lesbians was even worse. Lesbians were beaten up because however degrading prostitution can be, it is still regarded as normal behaviour, whereas lesbianism is seen as too threatening to the status quo." More recent sweeps by Peruvian police on gay and lesbian bars in Lima have also resulted in beatings and homophobic verbal abuse.

Ill-treatment may also occur in the context of street demonstrations. In the USA, New York police officers reportedly ill-treated peaceful demonstrators attending a rally organized by lesbian and gay rights activists in October 1998. Formal complaints were lodged relating to 70 incidents during and after the demonstration, including physical abuse of demonstrators and homophobic insults. The rally itself was in protest at the murder of Matthew Shepard, a student viciously battered to death in Wyoming in 1998 because he was gay. The case brought to international attention the spectrum of violence inflicted on people worldwide because of their sexual orientation or identity.

In the absence of effective protection and remedies against torture and other violations, many lesbian, gay, bisexual and transgendered people are forced to flee their country in search of physical safety. Since 1992, when an Argentine gay man was granted asylum in Canada on the grounds that he had been tortured by police because of his sexual orientation, a growing number of countries have accepted asylum claims on this basis. However, many asylum-seekers find it difficult to provide supporting evidence for their claim because patterns of persecution based on sexual orientation in their country are insufficiently documented by human rights organizations and other trusted sources. Others are afraid to speak openly to the immigration authorities about their sexual orientation. For example, F.C., a Honduran claiming asylum in the USA, omitted key details of the homophobic ill-treatment he was fleeing because he feared that fellow inmates in the immigration detention centre would turn violent if he disclosed his sexual orientation. His claim was rejected.

Human rights defenders

Over the last two decades, national movements for lesbian and gay rights have emerged all over the globe. They have campaigned for an end to police brutality, the decriminalization of homosexuality and equal protection of the law in the face of homophobic violence and discrimination. However, this surge of activism in recent years has met with renewed attacks on human rights defenders.

In Zimbabwe, members of the human rights group Gays and Lesbians of Zimbabwe have been threatened and denied police protection against attacks by pro-government groups. Meanwhile, President Mugabe of Zimbabwe has maintained his campaign of hate speech against lesbians and gay men, whom he has publicly branded "less than human" and "worse than pigs".

The dangers facing lesbian and gay rights defenders have been recognized by the UN High Commissioner for Human Rights:

"We must acknowledge that some human rights defenders are even more at risk because of the nature of the rights that they are seeking to protect, particularly when they relate to issues of sexuality, in particular sexual orientation, and reproductive rights."

Mary Robinson address to UN General Assembly, Beijing +5 conference, June 2000

In this campaign, AI aims to lift the veil on torture and ill-treatment based on sexual identity and to help raise awareness about what needs to be done to better protect the rights of lesbian, gay, bisexual and transgendered people.

Appeal case:

ARGENTINA

Vanesa Lorena Ledesma was arrested in Córdoba, Argentina, on 11 February 2000. Five days later she was dead. A police report recorded that she had died as a result of a “cardiac arrest”. However, an autopsy reportedly revealed that her body showed signs of torture including indications that she had been beaten while handcuffed; severe bruising to the feet, arms, back and shoulders were recorded. There also appeared to be a discrepancy of at least a day between the actual time of death and that recorded by the police responsible for her detention. Complaints about the treatment of Vanesa Lorena Ledesma have been lodged with both the provincial and national authorities.

Vanesa Lorena Ledesma, a 47-year-old transvestite whose legal name was Miguel Angel Ledesma, was an active member of the United Transvestites Association of Córdoba. She was detained in a bar during a fight and charged with damaging the bar. At the police station she was segregated from other prisoners; apparently the reason given for holding her in incommunicado detention was not to protect her, but to avoid other detainees having to share a cell with a “sick” person. According to reports, Vanesa Lorena Ledesma was HIV-positive and attended the local hospital for periodic check-ups which indicated that she was in good health.

Lesbian, gay and transgendered people continue to be the victims of harassment and discrimination at the hands of the Argentine police. Provincial legislation, which allows the police to detain people for acts which are not criminal offences, has frequently been used to detain transvestites, transsexuals, gay men and lesbians. There are concerns that these powers of detention have facilitated torture or ill-treatment.

There are continuing reports that lesbian, gay and transgendered people in Argentina are being detained in police stations in cruel, inhuman and degrading conditions and that they are the victims of beatings, sexual harassment and extortion by the officers responsible for their detention. Nadia Echazu, a transvestite, was walking in a Buenos Aires street in December 1997 when she was stopped by four men, believed to be police officers. They hit her, pinned her arms behind her back and pushed her to the ground, before forcing her into their car. She was taken to ‘Seccional 25’ police station where she was kicked and beaten all over her body by police. When she screamed in pain she was put into a straitjacket which was only removed when other detainees protested. That same day Nadia Echazu had been due to appear at a tribunal investigating the treatment of transvestites detained at police stations 23 and 25. Nadia Echazu was released without charge late in the evening.

Many victims have not lodged complaints about their treatment for fear of reprisals. Those complaints which have been lodged have largely been ignored by the authorities or have been investigated in a way which suggests that, despite the gravity of the allegations, they are not being taken seriously.

WHAT YOU CAN DO

- **Join our campaign — Take a step to stamp out torture**

You can help stamp out torture. Add your voice to Amnesty International’s campaign.

- **Write to:**

Señor Gobernador de la Provincia de Córdoba, Dr. José Manuel de la Sota, Casa de Gobierno, Calle Boulevard Chacabuco 1300, 5000 Córdoba, Argentina

- calling for an impartial and effective investigation into the torture and death in custody of Vanesa Lorena Ledesma (whose legal name is Miguel Angel Ledesma) following her detention on 11 February 2000;
- calling for this investigation to be brought to a speedy conclusion and for the results and methods of the investigation to be made public;
- calling for those suspected of responsibility for the torture and death in custody of Vanesa Lorena Ledesma to be brought to justice and to be suspended from active duty once criminal charges have been filed against them;
- Become a member of Amnesty International and other local and international human rights organizations which fight torture
- Make a donation to support Amnesty International's work
- Tell friends and family about the campaign and ask them to join too

Campaigning Online

The website www.stoptorture.org allows visitors to access AI's information about torture. It also offers 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 and visit other Amnesty International pages at www.amnesty.org

Creating Torture Free Zones

Around the world, AI members and other human rights activists press their authorities to declare Torture Free Zones. One of the many ways of attracting attention is to wrap public buildings, former detention centres and other places of symbolic significance with Torture Free Zone tape.

CAPTIONS

Protesters call for an end to the harassment of lesbian, bisexual and transgendered people in Chiapas state, Mexico. A pattern has emerged in recent years of violence directed at the gay community in Chiapas. © AI

Gay men and lesbians wave rainbow flags during the first ever gay pride in Tel Aviv, Israel, in June 1998. Over the last two decades national movements for gay and lesbian rights have emerged all over the globe. They have campaigned for an end to police brutality, the decriminalization of homosexuality and equal protection of the law in the face of homophobic violence and discrimination. © Reuters

A group of transvestites protest outside the central police station about the death in custody of Vanesa Lorena Ledesma. © Voz del Interior/ Ramiro Pereyra

An AI member at the Pride celebration in Paris, France, in 1997 holds a poster drawing attention to human rights abuses against gays and lesbians including police brutality. © AI/ Nicky Warden
This is an extract from Take a step to stamp out torture (AI Index: ACT 40/13/00), the launch report of Amnesty International's Campaign against Torture.

Ukraine © AI
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Peru © AI

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An AI report on the torture and ill-treatment of lesbian, gay, bisexual and transgendered people will be published in June 2001.