

## **Justice for torture victims, no impunity for torturers**

Inside this briefing

- what is impunity?
- the toll of impunity
- bring the torturers to justice
- victims' rights
- the turning tide
- international justice
- no safe haven for torturers
- what you can do

### **What is impunity?**

Impunity is the failure to bring to justice those who commit serious abuses of human rights. As part of its worldwide campaign against torture, Take A Step to Stamp Out Torture, Amnesty International is calling on all people, groups and governments to do what they can to end impunity for torture.

Victims of torture have a right to see justice done, to have the truth about what happened to them acknowledged and to receive compensation. Yet the shameful fact is that justice is the exception, not the rule. Most torturers commit their crimes safe in the knowledge that they will never face arrest, prosecution or punishment. Governments around the world rarely investigate incidents of torture. Even more rare are successful prosecutions under the criminal law.

Impunity sends the message to torturers that they will get away with it. Bringing the culprits to justice not only deters them from repeating their crimes, it also makes clear to others that torture and ill-treatment will not be tolerated.

Impunity undermines the systems built up over the years to protect against torture. When society's defences are down, any opportunistic pretext – such as the need to combat “terrorism”, the fight against crime, or hostility to groups such as asylum-seekers – may be used as a licence to torture.

‘Impunity sends the message to torturers that they will get away with it’

Impunity must also be overcome because it denies justice to the victims and robs them of their right to redress and compensation. Many of those who suffer torture come from groups who face discrimination in society – women, members of ethnic minorities and, overwhelmingly, the poor. These are the very people who find access to justice difficult if not impossible.

Impunity prolongs the original pain of torture by seeking to deny that it ever took place – a further affront to the dignity and humanity of the victim.

Amnesty International (AI) is a worldwide movement of people who campaign for human rights. AI works towards the observance of all human rights as enshrined in the Universal Declaration of Human Rights and other international standards. It seeks to promote the observance of the full range of human rights, which it considers to be indivisible and interdependent, through campaigning and public awareness activities, as well as through human rights education and pushing for ratification and implementation of human rights treaties.

AI's work is based on careful research and on the standards agreed by the international community. AI is a voluntary, democratic, self-governing movement with more than a million members and supporters in more than 140 countries and territories. It is funded largely by its worldwide membership and by donations from the public. No funds are sought or accepted from governments for AI's work in documenting and campaigning against human rights violations. AI is independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it support or oppose the views of the victims whose rights it seeks to protect. It is concerned solely with the impartial protection of human rights.

AI takes action against some of the gravest violations by governments of people's civil and political rights. The focus of its campaigning against human rights violations is to:

- free all prisoners of conscience. According to AI's statute, these are people detained for their political, religious or other conscientiously held beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status – who have not used or advocated violence;
- ensure fair and prompt trials for all political prisoners;
- abolish the death penalty, torture and other ill-treatment of prisoners;
- end political killings and “disappearances”.

AI calls on armed political groups to respect human rights and to halt abuses such as the detention of prisoners of conscience, hostage-taking, torture and unlawful killings.

AI also seeks to support the protection of human rights by other activities, including its work with the United Nations (UN) and regional intergovernmental organizations, and its work for refugees, on international military, security and police relations, and on economic and cultural relations.

### **What is torture?**

Definitions of torture vary slightly between different international standards developed at different times. The UN Convention against Torture defines torture as 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.

Torture is a serious crime against the person, like murder or grievous bodily harm. Torture has a further dimension – that of betrayal by the authorities responsible for protecting people from harm. Whether the perpetrator is a law enforcement official, or whether the institutions of the state have failed to provide protection from torture, the victims have been let down by the very people and institutions who have a legal duty to ensure their safety.

[Cover Photo Caption]

Cover photograph: Protesters in the USA accompany a mock coffin during a march demanding justice for Abner Louima, a Haitian immigrant who suffered severe internal injuries after New York police officers tortured him at a Brooklyn police station in August 1997. Despite elaborate attempts by police officers to lie about their involvement, one was sentenced in December 1999 to 30 years' imprisonment, and three others were convicted in March 2000 of conspiring to cover up the incident. Abner Louima was awarded record compensation in July 2001. Public pressure was an important element in overcoming impunity in this case.

© AP Photo/Doug Kanter

[End caption]

### **Justice for torture victims, no impunity for torturers**

At least three quarters of the world's governments – more than 150 – have used torture within the past four years. In more than 80 countries, people have died as a result. In more than 70 countries, torture by police officers, prison guards and soldiers is widespread or persistent. Even more people are tortured by those closest to them – husbands, parents, other relatives, employers or members of their communities – in countries where the authorities do little or nothing to protect them.

In the great majority of cases, no one is brought to justice for these crimes and the victims receive no compensation. Torture – one of the most serious crimes possible – is committed with impunity.

Impunity is one of the main factors that allow torture to continue and spread.

International law is clear. Torture is absolutely prohibited in all circumstances. However, the very people charged with implementing the law frequently flout it. Some governments use torture as part of their strategy for holding on to power. Many more pay lip service to human rights, but their rhetoric

conceals a lack of political will to hold torturers to account. More than any other single factor, impunity sends the message that torture – although illegal – will be tolerated.

However, the tide is turning. Public awareness is greater than ever before, in part because of action against some high profile figures, such as Augusto Pinochet and Slobodan Milošević. More and more governments appear willing to bring torturers to justice, at least those from other countries. The struggle against impunity for torture is gaining ground.

[photo caption]

Supporters of the Tiananmen Mothers demonstrate during Chinese President Jiang Zemin's visit to Hong Kong, May 2001. Placards called for an end to impunity for the 1989 massacre in Beijing when soldiers opened fire on unarmed civilians, killing hundreds and injuring thousands. Each year, hundreds of cases of torture and ill-treatment are investigated by the Chinese authorities, but for every case investigated, there are countless others which are ignored or covered up by officials.

© AI

[End caption]

[photo caption]

Sierra Leone. This 38-year-old woman had her hand cut off by rebel forces who attacked her farm in 1997. She is now at a camp for amputees in Freetown, where she has been fitted with an artificial arm and is relearning skills such as planting.

© Jenny Matthews/network

[End caption]

### **The toll of impunity**

Ramvathi was gang-raped by five men in her village in Uttar Pradesh, India, in September 1998. The attack was allegedly carried out by higher status villagers to punish Ramvathi and her husband for refusing to give up their land. The police refused to investigate the attack.

Four months later Ramvathi and her husband, Ram Chandra, were attacked by a large group of men. Ramvathi was raped again and died of her injuries. Ram Chandra was seriously injured. Under pressure from local human rights activists local police arrested some of the accused, but the case against them has made little progress and a conviction appears unlikely. Ramvathi and Ram Chandra are dalits, members of a caste facing widespread discrimination in India, who receive little protection from the police.

Tsvetalin Perov, a 16-year-old Roma boy, has third degree burns on large parts of his body which were inflicted in a Bulgarian police station. Tsvetalin is illiterate and epileptic. His arrest by police in Vidin in April 2000 was the latest of many in recent years. On several previous occasions, according to his relatives, he had returned home injured, with his clothes covered in blood. No one has been held to account for the torture of Tsvetalin Perov, and the Bulgarian authorities have failed to protect the Roma community from violence by racist gangs and its own forces.

Alfonso Martín del Campo Dodd is serving a 50-year prison sentence in a Mexican jail after being tortured into signing a false confession. Between

10 and 12 police officers tortured him

in a basement room in May 1992. They placed a plastic bag over his head and took turns kicking him in the testicles and beating him about the head, stomach and body with their hands and with wet towels. He was then forced to sign and fingerprint a pre-prepared confession admitting murder. The torture allegations are supported by official medical certificates and the testimony of the police officer responsible for his interrogation. He was dismissed from office but has never been prosecuted for torture.

In Mexico, where torture of criminal suspects, political detainees and members of indigenous communities is endemic, there were only seven convictions for torture or homicide resulting from torture between 1990 and 1996.

*'The toll of impunity is the continuing suffering of victims, the continuing use of unlawful violence and the undermining of the rule of law'*

Similarly in Turkey, investigations of 577 security officials accused of torture between 1995 and 1999 resulted in only 10 convictions.

The protracted and brutal conflict in Sierra Leone has shown the human price of allowing torture to be committed with impunity. A peace agreement concluded between the government and the armed opposition in July 1999 provided an amnesty for the many combatants on both sides who tortured unarmed civilians, committing widespread rapes and mutilations. The warring parties absolved themselves and each other alike.

Within months, atrocities were being committed again, the peace agreement broke down and rebel forces attacked UN peace-keepers. The international community was forced to reconsider the peace agreement and its amnesty, and took steps to set up an independent special court to try abuses committed in the conflict. However, abuses before November 1996 were left outside the jurisdiction of the special court, and by July 2001 the special court had still not been established.

*'At least three quarters of the world's governments have used torture within the past four years'*

The toll of impunity is the continuing suffering of victims, the continuing use of unlawful violence and the undermining of the rule of law.

[photo caption]

A Chilean human rights activist is escorted by police out of a Congress meeting in Valparaiso on 21 June 2000, after calling for those responsible for violations during the rule of President Augusto Pinochet to be brought to justice.

© Reuters/Claudia Daut

[End caption]

[photo box]

No trial for Kenyan police officers charged with murder

Rosemary Nyambura died after being arrested and beaten by Kenyan police officers. Nine years later, none of the four officers charged with her murder has stood trial.

In the early morning of 10 May 1992 Rosemary Nyambura was returning from a nightclub with a friend. Police reportedly stopped the two women, searched them and demanded to see their identity cards. Rosemary Nyambura was unable to produce hers and the police reportedly took from her Ksh 6,000 (approx. US\$40). Rosemary Nyambura followed the police officers back to Ruaraka police station, near Nairobi, demanding the return of her money. At the police station she was arrested and was reportedly beaten by up to seven police officers. She died of her injuries later that day.

The police later alleged that she had committed suicide by hanging, but the post-mortem report indicated that she had died of ruptured kidneys and spleen. Her family demanded an inquiry, but delays in the investigation meant that it was more than a year before proceedings started.

At an inquest in July 1995 the magistrate ruled that four police officers were responsible for her death and should be charged with murder. In February 1996 it was finally announced that four police officers had been charged and would stand trial for her murder. However, nine years after her torture, no trial has begun, and two of the police officers have since died.

Please write expressing concern at the lack of progress in the investigation of the torture and death in custody of Rosemary Nyambura, and urging that proceedings be resumed promptly.

Appeals to: Attorney General, Amos Wako, Office of the Attorney General, PO Box 40112, Nairobi, Kenya. Fax: 2542 211082

© Society

[end box]

[photo box]

**Brazil: adolescents tortured with impunity**

E.C.C. is an adolescent boy held in a Brazilian juvenile detention centre. He has been beaten by guards in at least three separate incidents since May 2000, shot and denied medical assistance. His case is just one of hundreds – all have gone unpunished.

On 29 May 2000, E.C.C. was beaten by guards in the Pinheiros detention centre, São Paulo state. He said they hit him with sticks and bottles filled with water, as well as their fists, elbows and knees. The next day he was taken to the Franco da Rocha unit, where he was again beaten, together with 47 other boys on his wing.

In September 2000, he was transferred to the Paralleiros unit, where again guards beat him and other boys. On 3 and 4 November 2000, there was a rebellion in the unit, and E.C.C. was shot in the abdomen. He was not taken to a hospital, but placed in a “security cell”, where, according to E.C.C., a guard came and beat him as he lay injured. He was given medical treatment only after repeated interventions by his mother.

Although inquiries were opened into some of E.C.C.’s allegations, no one has ever been charged in connection with his torture.

Brazil’s juvenile detention system is in crisis. In the state of São Paulo, beatings of adolescents by guards are endemic, conditions are appalling and riots are frequent. Yet not one juvenile detention centre guard in the entire state has ever been prosecuted under Brazil’s anti-torture law.

Please appeal for an investigation into the torture of E.C.C. and for those responsible to be brought to justice. Please write to the State Governor of São Paulo: Exmo. Sr. Governador de Estado de São Paulo, Sr. Geraldo Alckmin, Palácio dos Bandeirantes,

Av. Morumbi 4500, Morumbi, 05698-900, São Paulo - SP, Brazil

[photo caption]

Children pray before lunch at a São Paulo juvenile offenders’ home in Brazil.

© Reuters/Popperfoto

[end box]

### **Bring the torturers to justice**

International law is clear. All states are obliged to prohibit torture, to investigate allegations of torture, and to prosecute and punish those responsible for torture. Yet successful prosecutions for torture are rare. Whether justice is done often depends on the degree of media interest or public outrage, the political will of the prosecutor or investigating judge and the independence of the judiciary.

#### Legal flaws

There are flaws in the legal framework of some countries which contribute to impunity. Torture may not be defined as a specific crime in national law, or it may be defined too narrowly. People accused of torture may escape conviction by arguing that they were only following orders, even though this is expressly prohibited as a defence in the UN Convention against Torture.

*‘All states have a duty to prohibit torture’*

Laws may facilitate torture, for instance by allowing incommunicado detention (detention without access to lawyers, doctors, relatives or friends). In many countries, confessions extracted under torture are regularly used as evidence in trials to gain convictions, positively encouraging the use of torture and ill-treatment by law enforcement officers. Laws which unduly restrict the investigation and prosecution of torture cases also increase the chance of impunity for the perpetrators.

#### Legalized impunity

The most blatant obstacle to investigations and prosecutions is presented by national amnesty laws intended to shield perpetrators from justice. Such amnesty laws have been introduced in countries including Argentina, Chile, Peru, Sierra Leone and Uruguay. Often, laws granting immunity from prosecution for torturers have been introduced in periods of political transition, ostensibly to promote national reconciliation. Experience has shown that where justice is denied in the name of national reconciliation, a heavy price is paid by society as a whole, as well as by the victims and their families.

### Hiding the evidence

Torture, whether in the home, the police station or the prison cell, is normally carried out in secret and considerable efforts are often made to conceal evidence vital to the successful prosecution and conviction of the torturer.

Officials who participate in torture sometimes hide their crimes through unlawful detention practices – such as failing to identify themselves or to register detainees, keeping detainees blindfolded or in secret detention, or denying them access to lawyers, relatives or doctors. Torturers sometimes choose methods, such as hooding or psychological torture, which leave few physical traces.

*‘All states have a duty to investigate allegations of torture promptly and impartially’*

Police may tamper with or destroy evidence. For example, medical evidence may be suppressed and medical officers encouraged to falsify reports, while those who carry out their tasks scrupulously may be harassed or even prosecuted. The “code of silence” which operates in many police forces may dissuade officers from giving vital evidence against colleagues accused of torture. Police may also withhold and destroy evidence in cases where they have links or sympathies with the alleged perpetrators, such as where women accuse male members of the community of rape.

### Intimidation

Police officers may intimidate victims or witnesses of torture to persuade them not to file complaints or to retract testimony. Those who do present a complaint may be threatened, attacked or prosecuted on criminal counter-charges such as defamation. Victims from poor and marginalized sectors of the community, who are often unable to call on the support of lawyers or non-governmental organizations, are particularly vulnerable to threats and harassment.

### Failure to investigate

Most incidents of torture are never investigated. Investigations – where they occur – are often stalled because of the inaction, ineffectiveness or complicity of the investigating body. In many countries the police and the public prosecutors work together closely, and this may mean that prosecutors are not impartial and independent when it comes to investigations into complaints against the police. In some cases, investigations into torture are carried out by the very force whose members were responsible for the abuse.

### Failure to prosecute

The judicial system often fails to bring a prosecution, despite credible evidence that an act of torture has been committed. Prosecutors can obstruct justice by ignoring evidence of torture or by blocking investigations, for instance by refusing independent medical investigations of alleged torture victims. In some cases prosecutors do not have power to act on their own initiative or are unable to constrain the actions of the security forces. Political interference in the judicial process may also result in a decision not to prosecute.

*‘All states have a duty to prosecute and punish those responsible for torture’*

### Failure to convict

In some countries, courts fail to convict despite convincing evidence of the suspect’s guilt. Even where a conviction is secured, impunity persists if the sentence is grossly disproportionate to the gravity of the crime.

The length of time it takes to pursue a case of torture through the courts encourages victims to make compromises under pressure from perpetrators and often their own community or family. In India, for example, the average time for a case of rape to find its way from the Sessions Court to the Supreme Court is between 10 and 15 years.

### Discrimination

A male judge who acquitted a policeman of raping a 13-year-old girl in Davao City, the Philippines, in 1999, called the girl “a woman in a minor child's body, old in the ways of the world beyond her years”. He said, “It is possible she concocted this lurid tale of lust and rape.”

Women in the Philippines who are raped or beaten in custody are often members of marginalized groups including suspected prostitutes, street children, drug users and the poor arrested for minor crimes.

Frederick Mason, a young, black, gay nurse's assistant, was arrested by the police in Chicago, USA, in July 2000 following an argument with his landlord. One police officer had raped him with a club, another had walked away during the assault. The local police chief dismissed his allegations as completely unfounded, despite medical evidence supporting his version of events. Allegations of brutality and excessive force – perpetrated mainly against members of racial minorities – by US police continue to be reported from across the USA.

Police, prosecutors and judges cannot escape the prejudices of the society in which they live.

Discrimination on grounds of gender, ethnicity, class and sexual orientation leads to bias in investigations, in decisions on prosecutions, in court rulings and in sentencing decisions.

For example, some police officers share the attitudes of perpetrators of violence against women and therefore consciously or unconsciously shield the offenders. They frequently send abused women back home rather than file their complaints. In many instances, police have humiliated rape victims, adding to their suffering rather than alleviating it.

Victims with less wealth and power also have less access to legal remedies. They may lack the know-how, the contacts or the finances to pursue a complaint against those who have tortured them. They may find that those in authority are unlikely to believe them, and they may suffer further abuse for daring to complain.

Members of groups that face widespread hostility, such as street children, criminal suspects or people who express their sexuality in non-traditional ways, are both more vulnerable to torture and less able to gain justice from the authorities.

Discrimination reinforces impunity, lessening the likelihood of any official action in cases of torture.

[photo caption]

Members of Cambodia's National Assembly vote on 2 January 2001 to approve legislation to try some former “Khmer Rouge” leaders before a panel of both national and international judges. The Government of Democratic Kampuchea (Khmer Rouge) ruled over Cambodia between April 1975 and January 1979, years in which tens of thousands of Cambodians were victims of crimes against humanity, including torture and political killings.

© Reuters/Chor Sokunthea

[End caption]

[text box]

Crimes of torture under international law

Every act of torture is a crime under international law. Assistance and participation in torture are also crimes under international law.

If torture is committed in an armed conflict, it constitutes the war crime of torture.

If torture is committed as part of a systematic or a widespread pattern of similar acts, it constitutes the crime against humanity of torture.

The UN Convention against Torture prohibits torture as an independent crime, as a war crime and as a crime against humanity, absolutely and in all circumstances.

The Geneva Conventions prohibit the war crime of torture in both international wars and internal conflicts such as civil wars or rebellions.

The Rome Statute of the International Criminal Court prohibits torture when it constitutes genocide, a crime against humanity or a war crime.

The prohibition of torture has a special status in international law. It is part of customary international law, which means it is binding on all states, whether or not they have ratified any of the international human rights treaties. It is also a “peremptory norm”, which means that it cannot be overruled by any other law or by local custom.

[End box]

[photo caption]

Two Rwandese nuns who were found guilty and sentenced to long prison terms in June 2001 for direct complicity in the slaughter of up to 7,000 Tutsi at the height of the genocide in Rwanda in 1994. They were among four Rwandese nationals convicted in Belgium's first trial based on universal jurisdiction. In 1993 and 1999, Belgium passed laws giving itself the right to try people suspected of war crimes, genocide and crimes against humanity, regardless of their nationality or that of the victims, or the location of the crime.

© Reuters

[End caption]

[box]

Lebanese detainee tortured and held without trial in Israel

In May 1994 Mustafa al-Dirani, the leader of a Lebanese armed group, was abducted from his home in Lebanon by Israeli soldiers and taken to Israel where he has been held ever since. While held in incommunicado detention during the first month, he was interrogated and tortured several times. He remains in administrative detention to this day and has never been brought to trial.

Mustafa al-Dirani was taken prisoner during a raid on his home in the village of Qasarnaba in May 1994. He was questioned about the missing Israeli aircraft navigator Ron Arad, who was reportedly held prisoner in south Lebanon by the armed group Amal for one year after being captured in 1986. Mustafa al-Dirani was the former leader of Amal. At the time of his abduction he was leader of another Lebanese armed group, Faithful Resistance. According to Mustafa al-Dirani's complaint to the Israeli Supreme Court, he was beaten, deprived of sleep and tied in a crouched position for many hours until his limbs became paralyzed. In addition he was raped, and several days later sodomized with a wooden club. It was not until several days after this torture that he was seen by a doctor, who gave him cream for the pain but did not ask him what had caused the injuries. At a later stage of his interrogation, Mustafa al-Dirani was made to drink large amounts of water and paraffin oil, and forced to wear a diaper to collect bodily waste, which was not changed for several days.

Since his arrest he has remained in secret detention. According to his family, the International Committee of the Red Cross have never been allowed to visit him. Mustafa al-Dirani sued the Israeli government in March 2000 for the torture he had suffered. The military inquiry set up to investigate his complaint found that there was no basis for it; they heard evidence in secret and the basis of their findings is also secret. A civil case for compensation is still continuing, and Mustafa al-Dirani continues to be held without charge or trial in administrative detention.

Express your concern about the torture suffered by Mustafa al-Dirani while in incommunicado detention in 1994. Call for him to be released, unless he is charged and brought to trial according to international standards. Please appeal to: Benjamin Ben-Eliezer, Minister of Defence, Ministry of Defence, Kaplan Street, Hakirya, Tel Aviv 67659, Israel. Fax: +972 3 691 6940

© private

[End box]

[photo caption]

Ricardo Miguel Cavallo, alleged to be Miguel Angel Cavallo, a former Argentine military officer, receives notification of Spain's formal request to the Mexican authorities for his extradition, 11 October 2000. Ricardo Miguel Cavallo is wanted in Spain to face charges of genocide and torture during Argentina's 1976-1983 "dirty war".

[End caption]

[box]

Jehovah's Witnesses assaulted – Georgian police reportedly joined in the attack

On 27 February 2001 a congregation of around 300 Jehovah's Witnesses gathering for a meeting in a courtyard in the Isansky District of the Georgian capital, Tbilisi, came under attack by supporters of the

Georgian Orthodox Church. The Jehovah's Witnesses reported that a number of their members were beaten, and that police officers did not protect them and even joined in the attack.

Following a television broadcast giving news of the meeting, police arrived at the courtyard stating that they had come to protect the congregation in the case of an attack. When the Orthodox Church supporters arrived, the Jehovah's Witnesses refused to open the gate fearing violence against them. A group of men climbed over the wall, some of them reportedly stating that they were police officers, and let in the crowd and the rest of the police. In the meantime, women and children had managed to escape across a wall at the back of the courtyard. The Orthodox Church supporters then began to beat members of the congregation. According to Jehovah's Witnesses present, some of the policemen participated in the beatings.

On the day after the beatings, police officers reportedly approached the owner of the courtyard, urging him to testify that he had not given the Jehovah's Witnesses permission to use his premises but that they had taken it by force. This incident is part of a growing pattern of apparent official impunity regarding attacks against minority religions in Georgia.

Please appeal to the President to ensure that an impartial investigation is opened into the 27 February 2001 attack on Jehovah's Witnesses, and that any police officers found responsible for failing to protect the Jehovah's Witnesses, or for joining in the attack, be brought to justice. Urge that the other participants in the attack likewise be brought to justice. Please write to:

President Eduard Shevardnadze: Rustaveli prospect, 8,  
Tbilisi 380018, Georgia

[photo caption]

Rudolf Mikirtumov, a Jehovah's Witness reportedly beaten by supporters of the Georgian Orthodox Church.

© AI

[End box]

[photo caption]

Khiam detention centre, south Lebanon. De Gaulle Boutros stands by an electricity pylon from which he was suspended with a hood over his head, doused with water, given electric shocks and beaten with electric cables. In May 2000 the gates of Khiam detention centre were forced open and the last 144 prisoners released. Detainees at the centre run by the South Lebanon Army (SLA) militia in cooperation with the Israeli army were routinely tortured. The main perpetrators of torture in Khiam, whether Israeli or SLA officials, have not been brought to justice. Israel has refused to accept responsibility and trials by the Lebanese authorities have been so summary, with barely seven minutes spent on each individual, that they neither allow the innocent to be acquitted nor ensure that those guilty of torture are convicted.

© Ina Tin/AI

[End caption]

## **Victims' rights**

### Providing reparations for victims

Holding torturers to account is vitally important, but it is only part of giving victims justice. They are also entitled to reparations.

There are five types of reparation:

- 1 financial compensation;
- 2 medical care and rehabilitation;
- 3 restitution (seeking to restore the victim to his or her previous situation);
- 4 guarantees of non-repetition; and
- 5 forms of satisfaction such as restoration of their dignity and reputation and a public acknowledgment of the harm they have suffered.

The harm done must, as far as possible, be repaired.

The consequences of torture on the individual victim and their immediate family are both profound and long-lasting. Sometimes victims need long-term or expensive medical treatment or therapy. Sometimes their expectations of life have been changed dramatically by their terrible experience. A just scheme of redress should take into account both the harm done and its longer-term consequences.

*'The harm done must, as far as possible, be repaired'*

Victims of torture have a right to an effective remedy – the right to enforce their rights, if necessary through court action. The right to an effective remedy is of paramount importance when a state ignores its duty to investigate, prosecute and provide redress when torture is alleged.

[box]

Prisoner of conscience tortured in Malaysia

“My ability to speak, read and write took a considerable time to show signs of recovery. Short-term memory lapses were frequent. I existed in a fluid state in which suicidal tendencies, depression and despair were punctuated by fits of rage and indignation. In spite of more than two years since I regained my freedom, I continue to suffer from psychiatric difficulties.” Former prisoner of conscience, Dr Munawar Anees, April 2001.

In September 1998 Malaysian police arrested Dr Munawar Anees, a Pakistani-American biologist and writer. He is a close associate and former speech writer of Anwar Ibrahim, the former Deputy Prime Minister of Malaysia and prisoner of conscience, who is currently serving a 15-year prison sentence on politically motivated charges of sodomy and abuse of power.

For five days Dr Munawar Anees was detained at a secret location, denied access to his family and lawyers and tortured in order to coerce a false confession that he had had a sexual relationship with Anwar Ibrahim. In a sworn declaration made to his lawyers in November 1998 he described how he was held in isolation in a tiny, windowless cell, stripped naked, blindfolded, shaved bald, punched in the stomach, deprived of sleep, forced to simulate homosexual acts and subjected to hours of aggressive interrogation designed to humiliate him and break his will. After an unfair trial, he was sentenced to six months in prison for sodomy. He spent his sentence handcuffed to a hospital bed, receiving treatment for psychiatric problems and a heart ailment caused by the harshness of his treatment.

Dr Munawar Anees appealed against his conviction on the basis that his confession was coerced under torture. Yet nearly three years later, no date has been set for his appeal. In July 2000 he also lodged a complaint with Suhakam, the Malaysian Commission on Human Rights. To date Suhakam is not known to have begun any investigations into his treatment in detention.

Please send appeals urging a full, impartial investigation into the treatment of Dr Munawar Anees during his detention in September 1998, calling for those responsible to be brought promptly to justice.

Write to: Chairman, Human Rights Commission (SUHAKAM), Ybhg. Tan Sri Musa Hitam

Suruhanjaya Hak Asasi Manusia Malaysia,

29th Floor, Menara Tun Razak, Jalan Raja Laut, 50350 Kuala Lumpur, Malaysia.

Fax: +603 26125620, E-mail: [humanrights.com.my](mailto:humanrights.com.my)

© Friends of Dr Anees

[End box]

[photo caption]

Thousands of Bangladeshi women attend a rally in Dhaka on 3 February 2001 to protest against fatwas (religious edicts) which result in the imposition of floggings and stonings, often until death. These edicts are issued by the Muslim clergy, mostly against women who have asserted themselves in village life.

In January 2001 a landmark decision by the High Court ruled that such edicts were illegal and must be made punishable by an act of parliament, but the ruling was subsequently stayed and is still being considered. However, the judgment has highlighted the failure of the government of Bangladesh to protect women against the practice of fatwa.

© Reuters/Rafiqur Rahman  
[End caption]

## Turning the tide

The arrest of Augusto Pinochet in October 1998 in the United Kingdom transformed public awareness of the possibilities for overcoming impunity. The proceedings against Slobodan Milošević before the International Criminal Tribunal for the former Yugoslavia marked a further step forward. Although impunity is still the rule and justice the exception, the tide seems to be turning, however slowly. Victims of torture in many countries have organized to pursue through the courts the people responsible for their suffering. In Argentina, years after amnesty laws put a stop to prosecutions for atrocities committed during the “dirty war” of the late 1970s and early 1980s, senior officials are in custody in connection with the “disappearance” of young children stolen for adoption, and an Argentine judge has recently ruled the amnesty laws unconstitutional.

*‘Although impunity is still the rule and justice the exception, the tide seems to be turning’*

In Chile, efforts to bring former President Augusto Pinochet to account for grave human rights violations committed since 1973 made significant progress, with more than 200 law suits lodged against him, until a court suspended the charges on the grounds that he was unfit to stand trial. During 2000 in both Suriname and the Netherlands (the former colonial power), investigations were ordered into allegations that Desiré Delano Bouterse, former army commander and head of state of Suriname, was involved in torturing and extrajudicially executing 15 people in December 1982. There have been concerted efforts both in Senegal (his country of exile) and in Chad to pursue former president Hissène Habré, who ruled over Chad between 1982 and 1990 and whose regime was characterized by the systematic occurrence of serious human rights violations such as torture. Efforts to bring torturers to justice for atrocities committed in the past, sometimes many years ago, have been encouraged by, and reflected in, moves towards international justice.

### International justice

The international community is putting into place international mechanisms to overcome impunity and enforce international law.

During the 1990s the UN created two international tribunals to prosecute those responsible for genocide, crimes against humanity and war crimes committed in Rwanda and the former Yugoslavia. The functioning of these tribunals has been hampered by shortages of human and financial resources and lack of sufficient cooperation from individual states, for example in providing intelligence and assisting in the arrest of indicted suspects. Despite such problems, the tribunals have indicted and convicted a number of people on torture-related charges.

In Sierra Leone and Cambodia, the UN is preparing to support tribunals combining national and international judges and jurisdiction.

### International Criminal Court

In 1998 the international community voted overwhelmingly in Rome to establish a permanent international criminal court with jurisdiction over perpetrators of torture when it constitutes genocide, a crime against humanity or a war crime. The International Criminal Court, which will come into being when 60 states have ratified the Rome Statute, will not be a substitute for national courts able and willing to fulfil their responsibilities. It will exercise jurisdiction only when states fail to bring those responsible for these crimes to justice.

National legislatures in states which have ratified the Rome Statute should enact legislation ensuring cooperation with the International Criminal Court and enabling their own national courts to complement it effectively.

[photo caption]

Passers-by in Belgrade, Yugoslavia, look at posters of former President Slobodan Milošević which read ‘Who is to blame?’, published by the Serbian student pro-democracy group OTPOR (Resistance). Slobodan Milošević was arrested in April 2001 on charges of corruption and fraud, and transferred to the Yugoslavia Tribunal in June 2001 to face charges of crimes against humanity and war crimes.

© Reuters/Goran Tomasevic

[End caption]

[photo caption]

Amal Farouq Mohammad al-Maas adds her signature to the millions pledging to do everything in their power “to ensure that the rights in the Universal Declaration of Human Rights become a reality throughout the world” as part of an AI campaign in 1998. She was interrogated and tortured by officers of the State Security Investigations Department (SSI) in Cairo, Egypt, in 1993 and 1996. In 1999 she was invited to participate in a UK television interview about her treatment in detention but was unable to continue after SSI officers installed surveillance equipment in her home and threatened her with arrest.

© AI

[End caption]

### **No safe haven for torturers**

Torture is a crime that requires an international response. Under the UN Convention against Torture, any state can and should judge anyone on its territory who is suspected of torture, regardless of the place where the crimes were committed, and the nationality of those involved.

The principle of universal jurisdiction requires states to bring suspected torturers in their territory to justice in their own courts or else to extradite them to another state able and willing to do so.

This principle was established more than 50 years ago following the Second World War and was incorporated into the four Geneva Conventions of 1949. For decades, however, most states failed to give their courts such jurisdiction under national law. Those that did hardly ever exercised it. Political considerations always prevailed over those of principle. As a result perpetrators evading justice in their own countries have had little difficulty in finding “safe havens” elsewhere.

Recent developments, however, indicate that in future fewer countries will tolerate torturers on their soil. Prosecutions on the basis of universal jurisdiction for recent crimes have taken place in Austria, Belgium, Denmark, France, Germany, the Netherlands, Spain and Switzerland.

The progress towards the International Criminal Court and implementation by states of universal jurisdiction are landmarks in the struggle against impunity. These successes would not have been possible without the steadfast lobbying and painstaking groundwork done by victims, their relatives, lawyers and human rights activists. The battle against impunity is primarily local and national, but these achievements point to the importance of a globalized response to the challenge of pursuing torturers, wherever they may be.

[box]

What is universal jurisdiction?

Universal jurisdiction over torture means that courts have the right to try a person accused of torture no matter where the torture took place, and regardless of the nationality of the suspect and the victim.

Under the Convention against Torture, all states have a duty either to bring suspected torturers in their territory to justice in their own courts or else to extradite them to a state able and willing to do so.

[End box]

[photo caption]

Wallace Gichere, a former photojournalist who claims he was thrown from a fourth floor window by police, protests against torture in Nairobi, Kenya, on 23 June 2000. A report in March 2000 by the UN Special Rapporteur on torture raised serious concerns about the widespread use of torture in Kenya by security officers.

© Reuters/George Mulala

[End caption]

[box]

Turkey: impunity for police officers who tortured young woman

Gülistan Durç has been arrested and tortured in detention in Turkey several times over the past five years. She has been diagnosed as suffering from post-traumatic stress disorder. None of her torturers has been brought to justice.

Gülistan Durç is an active local member of the legal pro-Kurdish party HADEP in Mardin. After her first arrest in March 1996, when she was only 17 years old, she was held for seven days at the Anti-Terror branch of Mardin Police Headquarters. Subsequent arrests between 1997 and 2000 lasted from two to five days. During these interrogations in the custody of officers from the Anti-Terror branch, she says she was subjected to various forms of torture including being stripped naked and blindfolded, heavily beaten, sprayed with cold pressurized water, suspended by her arms, threatened with death, burned with cigarettes and hot wires, and prevented from sleeping.

In April 1999 she filed a formal complaint, but withdrew it when she was arrested two days later from her home by plainclothes police who threatened her. Since then, she says that she has frequently been arrested at her home in the middle of the night and held for a few hours.

On 19 December 1999 Gülistan Durç was interrogated by police officers using such force that her arm was broken. Upon her release she filed a formal complaint. She was again arrested in February 2000 and held for two days at Mardin Police Headquarters, where she was beaten on her broken arm which had only just been removed from plaster. The resulting damage and pain were so intense that she was released from prison on medical grounds pending a trial in which she is charged with membership of an illegal organization.

Since her release Gülistan Durç has reportedly been followed by police, frequently threatened and detained for short periods. As a result she is frightened to leave the house alone. Following medical and psychiatric examinations, specialists in Izmir issued a report in January 2001 which concluded that she is suffering from post-traumatic stress disorder and has further medical problems which corroborate her reports of torture.

Despite intimidation, Gülistan Durç lodged formal complaints of torture and harassment, but since 1999 numerous courts and prosecutors have decided not to proceed on grounds of insufficient evidence, despite medical reports. No official attempts to seek further evidence have been pursued, and none of the perpetrators has been brought to justice.

Please appeal for an investigation into the repeated torture of Gülistan Durç and for those responsible to be brought to justice. Please write to the Turkish Minister of Justice:

Prof Hikmet Sami Türk, Ministry of Justice, Adalet Bakanl, 06659 Ankara, Turkey

© AI

[End box]

### **What you can do**

· You can help the people featured in this briefing:

Please write appealing for:

- their cases to be impartially investigated;
- for them to be given prompt reparations from the state including financial compensation, medical care and rehabilitation; and
- for those responsible to be prosecuted and given a fair trial in proceedings which exclude the death penalty.

· You can challenge your government to ensure that torture is not committed with impunity in your country:

- torture should be expressly defined as a crime in national criminal law;
- all reports of torture should be promptly, independently, impartially and thoroughly investigated;
- decisions on whether to prosecute should be made by an independent prosecutor or investigating judge, not a political official;

- people suspected of torture should be brought to justice in fair trials;
- the rights of victims to an effective remedy against torture should be recognized in national law;
- victims of torture, witnesses and relatives should be protected before, during and after trials;
- victims of torture and their dependants should be entitled to reparation from the state including compensation and medical care.
  
- You can challenge your government to ensure that your country is not a safe haven for torturers from other countries:
- your country should ratify and implement the 1984 UN Convention against Torture, if it has not done so;
- your country should ratify and implement the 1998 Rome Statute of the International Criminal Court, if it has not done so;
- your country's legal system should allow the courts in your country to exercise universal jurisdiction over alleged torturers (they should have the right to try cases no matter where the torture took place, and the nationality of the people involved);
- your country's legal system should allow people suspected of torture to be brought to justice in fair trials, or extradited to another country able and willing to prosecute them.
  
- You can take a step to stamp out torture:
- join Amnesty International's campaign against torture and impunity;
- join Amnesty International and other local and international human rights organizations which fight torture and impunity;
- make a donation to support Amnesty International's work;
- tell friends and family about the campaign and ask them to join too;
- register to take action against torture at [www.stoptorture.org](http://www.stoptorture.org) and campaign online. Visitors to the website will be able to appeal on behalf of individuals at risk of torture.

[Box]

Around the world, AI members and other human rights activists campaign against torture and impunity. Among their activities, they press the authorities in their countries 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  
Australia Ukraine Peru

Photos: © AI

[End box]

© Amnesty International Publications 2001

Original language: English.

All rights reserved.

Printed by Lynx Offset Ltd.

Amnesty International,  
International Secretariat,  
Peter Benenson House,  
1 Easton Street,  
London WC1X 0DW,  
United Kingdom

[www.amnesty.org](http://www.amnesty.org)

AI Index: ACT 40/022/2001

ISBN: 0-86210-309-6