

# Torture and ill-treatment

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[photo caption]

Abdulhelil Abdumijit, a 31-year-old street trader, was detained on 5 February 1997 in Gulja city, Xinjiang Uighur Autonomous Region, China. An official confirmed that he had been detained on suspicion of leading a demonstration. From the outset there were reports that he was being severely tortured to make him “confess” and denounce his friends. Abdulhelil Abdumijit died in detention in October 2000, reportedly as a result of torture. According to reports, his body was not returned to his family but was taken under heavy police guard to a cemetery in Chapchal and buried in a shallow grave.

© private

[end caption]

[cover photo caption]

Cover photo: © AP/ The Dallas Morning News

A Togolese woman fleeing torture in her country waits for news of her asylum application in a US county jail, December 1998. Many of the world’s 15 million refugees are torture victims. Refugees who have fled their country in fear of torture are entitled to international protection. They should be granted asylum, protecting them from being returned to their torturers.

[end caption]

[photo caption]

Opposite:

AI youth activists in the USA demonstrate against torture in Peru, March 2001.

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[end caption]

Amnesty International is a worldwide movement of people working to promote internationally recognized human rights. It is independent of any government, political persuasion or religious creed. Its mission is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination. In this context:

- It seeks the release of all prisoners of conscience. 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.
- It works for fair and prompt trials for all political prisoners.
- It opposes the death penalty, torture and other cruel, inhuman or degrading treatment or punishment without reservation.
- It campaigns for an end to political killings and “disappearances”.

Amnesty International 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.

It 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.

## Freedom from torture for all — a fundamental right

“He had a pair of pliers in his hand. He kept asking where the mobile was. I told him I had not seen it. He then told me to bring my thumb forward. He got hold of my thumb and placed it between the pliers. He pressed it hard and crushed my thumb. I do not remember what happened next.”

A nine-year-old boy from Bangladesh describes his treatment by a policeman.

Everyone has the right to live free of the threat of torture and ill-treatment. International law unequivocally and absolutely prohibits torture in all circumstances. Yet despite universal condemnation, torturers continue to inflict physical agony and mental anguish on countless victims – and to get away with it.

The world has changed immeasurably since Amnesty International first began denouncing torture. So too have the challenges and opportunities facing the fight against torture. It is clear that torture is not confined to any particular political system. It occurs in democracies as well as dictatorships, under civilian as well as military governments. It is also clear that the victims of torture are criminal suspects as well as political prisoners, the disadvantaged as well as the dissident, people targeted because of their identity as well as their beliefs. They are women as well as men, children as well as adults.

What is torture?

Torture cannot be defined by a list of prohibited practices. Human rights treaties define torture in a number of different ways, reflecting the different contexts in which they were drafted and the purposes of the particular treaty.

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment covers abuses carried out by agents of the state, or with their consent or acquiescence. It refers to “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person”, for a purpose such as obtaining information or a confession, punishment, intimidation or coercion, “or for any reason based on discrimination of any kind”.

It is impossible to draw a clear dividing line between “torture” and other “cruel, inhuman or degrading treatment or punishment” (ill-treatment). Whether an act of ill-treatment constitutes torture depends on a number of factors including the nature and severity of the abuse. Both torture and ill-treatment are prohibited in all circumstances by international law.

[photo caption]

Aca Radić and Sonja Papak, both activists in Otpor (Resistance), the non-violent student movement in the Federal Republic of Yugoslavia.

In September 2000, Aca and five other members of Otpor from Vladicin Han, a small town in southern Serbia, were putting up Otpor’s “He’s finished” stickers over existing posters of the then President, Slobodan Milošević, when they were caught by police.

They were asked to go to the police station the following day, as was another Otpor activist. When they arrived at the police station, they were questioned about Otpor’s aims and sources of funding, and then told that they could leave. As three members of the group were waiting for their friends to come out, two police officers and a civilian employed by the police arrived. These three men then began to hit the Otpor members and verbally abuse them. The police then forced them back into the building and began to beat the activists on the back, face, arms, kidneys and genitals. Some were ordered to take their shoes off, and beaten on the soles of their feet. Others were forced to squat in a painful position for half an hour; another was beaten until his head was bloody and swollen and he lay unconscious on the floor.

At one point, Aca was asked to write a statement. In fact, while he was pretending to write his statement Aca sent out text messages on a mobile phone. Not long after, as many as 400 friends and family arrived at the police station to demand their release.

In December 2000, following a complaint by the Humanitarian Law Fund seeking compensation on behalf of the six men, investigative proceedings began against the three officers, who were reportedly transferred to other duties.

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[end caption]

## Contexts of torture

Police officers are responsible for upholding the law and protecting the rights of all members of society. However, police officers are the agents of the state most likely to use torture. Torture or ill-treatment by police officers has been reported in more than 140 countries since 1997. In most countries the number of prosecutions for police brutality represents only a tiny fraction of the number of complaints made; convictions are rarer still.

Most casualties of today's wars are civilians, not soldiers. In modern conflicts, terrorizing civilian populations has become a common means of waging war. This often involves the use of torture, as has been highlighted, for example, in recent conflicts where rape has been systematically used as a weapon of war.

Torture, ill-treatment and deliberate neglect are rife behind the prison walls of many countries. For some prisoners, they combine to turn a prison sentence into a death sentence.

Amnesty International considers that judicial corporal punishment – such as amputation, branding and various forms of flogging, including whipping and caning – constitute torture or ill-treatment.

[photo caption]

Fatma Tokmak and her two-year-old son Azat were repeatedly tortured by police officers after her arrest in Istanbul, Turkey in 1996. She alleged that she was stripped, made to lie naked on the floor and threatened with rape. Officers hung her by her arms and sexually abused her. They tortured Azat with electric shocks on his back and by grinding a lighted cigarette on to his hand. They took Azat away, reportedly saying, “you won't see him again because we are going to kill him now”. Azat was later found in an orphanage, and returned to her. No one has yet been brought to justice for this crime.

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“They told me to lay down on the concrete slab, it's a bed made out of concrete. There are four rings at each corner... They told me to lay on my stomach and when I asked what for, [an officer] pushed me down and put the shield on me and electrocuted me. I couldn't move my muscles. They handcuffed my hands to the rings and then they put shackles on my feet and put handcuffs around the shackles on my feet to insert them in the rings. They hit me with the shield one time and left it on. I thought I was being killed. Then they left me for about 17 hours. When I told them I need to urinate they told me ‘when you were a child did you never piss on yourself.’ And that's what I had to do.”

Extract from an affidavit given by a detainee transferred from Jackson County Correctional Facility, Marianna, Florida, USA, by the Immigration and Naturalization Service (INS), following allegations of torture and ill-treatment at the facility in 1997 and 1998.

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## Fighting impunity

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 profound lack of political will to hold torturers to account.

States have an obligation to establish effective preventive safeguards, investigate all complaints and reports of torture promptly, impartially and effectively, bring those responsible to justice and provide reparation to the victims.

However, in many countries, impunity for torturers – the failure to bring those responsible for torture to justice – is endemic. The stark reality is that most victims of torture around the world are routinely denied justice. For all too many the experience of making complaints and seeking to bring their abusers to justice results not in justice, but in further abuse and intimidation.

More than any other single factor, impunity sends the message that torture – although illegal – will be tolerated.

Although impunity remains the norm and justice the exception, in the last few years, ground-breaking measures have been taken to ensure that alleged torturers who evade justice in their own country can be held to account internationally either through the domestic courts of other countries or through international criminal tribunals. Significant steps have also been taken towards establishing the International Criminal Court to try cases of torture and other crimes against humanity, war crimes (including torture) and genocide.

### Torture by private individuals

Torture is often committed by police officers, soldiers, intelligence officers, prison guards or other agents of the state. But not always. Torture can also be inflicted by members of armed political groups or, in some circumstances, by private individuals.

Amnesty International considers that acts of violence by private individuals constitute torture when they are of the nature and severity envisaged by the concept of torture in international standards and when the state has failed to fulfil its obligation to provide effective protection against such acts of violence.

“They locked me in a room and brought him every day to rape me so I would fall pregnant and be forced to marry him. They did this to me until I was pregnant...”

A young woman in Zimbabwe describes her parents’ efforts to “correct” their daughter’s lesbianism.

States are responsible for protecting people not only against torture by their own agents, but also against similar practices by private individuals (“non-state actors”). States may be responsible for consenting or acquiescing to torture, for example, if they fail to provide protection against violent racist attacks. They may be held responsible if they do not exercise due diligence in taking effective steps to prevent torture and ill-treatment, to investigate such abuses when they occur, to prosecute the alleged perpetrators and bring them to justice through fair proceedings, and to provide adequate compensation and other forms of reparation to the victims. A state cannot, for example, avoid responsibility for investigating the ill-treatment of domestic workers and bringing the perpetrators to justice by arguing that the abuse took place in the privacy of the employer’s home, or that it is justified by social or cultural practices.

[photo caption]

Karsini binti Sandi, a 19-year-old Indonesian domestic worker, told Amnesty International that she was assaulted by her employers in Saudi Arabia and then abused and threatened with execution by police officers when she asked them for help. She escaped and returned to Indonesia in January 2000.

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### Discrimination

Torture feeds off discrimination. All torture involves the dehumanization of the victim, the severing of the 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.

Holding states accountable for preventing and punishing abuses by non-state actors is of crucial importance in the struggle to defend the human rights of those facing discrimination. On a daily basis, this discrimination manifests itself through violence, whether in the form of domestic violence, or racist or homophobic hate crimes.

Institutionalized discrimination often means that the victims are also less likely to receive protection and support from the authorities. Governments cannot be selective in fulfilling their obligations. They must strive to eradicate torture and ill-treatment for everyone, wherever it occurs and whoever the victim or perpetrator may be.

[photo caption]

Brandon Teena, born female and named Teena Brandon, was living as a man in preparation for sex-change surgery in Nebraska, USA, when he was killed in December 1993. Shortly before his death Brandon was raped and beaten after it was discovered that he was born a woman. When Brandon reported the rape, the local sheriff responded in a way which the Nebraska Supreme Court described in April 2001 as “demeaning, accusatory and intimidating”. Sheriff Charlie Laux not only failed to detain the alleged rapists, he reportedly told them that Brandon had filed charges of sexual assault against them. The two men then went to where Brandon was staying and murdered him and two other young people, Lisa Lambert and Philip Devine. Two men were convicted of the murders. One is currently appealing against the death penalty; another is serving three life sentences.

However, it was not until April 2001 that legal action initiated by the family against the police for the way in which Brandon was treated finally resulted in a Nebraska Supreme Court judgment that former Sheriff Charlie Laux was negligent and that his conduct was “extreme and outrageous, beyond all possible bounds of decency, and is to be regarded as atrocious and utterly intolerable in a civilized community.” After the judgment Brandon’s mother was reported as saying: “I am so happy today. Nothing will bring Teena back, but I will sleep better knowing that we have found some justice for her. And because of this case, fewer parents will find their children abused and exposed to danger by law enforcement officials.”

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## The campaign against torture

Technological developments have influenced both the means of inflicting torture and the possibilities for combating it. Electro-shock devices have been developed to restrain, control or punish. At the same time communications technology means that anti-torture campaigners can organize in new ways. Today it is harder for torturers to hide; new international activist networks and coalitions can pursue them wherever they go.

The prevalence of torture can seem daunting, but a campaign founded on unity in action has the potential to empower and motivate. Torturers thrive on the indifference of the general public. Our task must be to turn indifference into outrage and outrage into action.

For the victims of violence, the pain and suffering are just as intense, regardless of who the perpetrators are and regardless of whether the state has instigated their torture or failed to protect them from the violent acts of others. States have a responsibility to prevent, prosecute and ensure redress for these abuses, and Amnesty International calls on them to do so.

## What you can do

Join Amnesty International and become part of a worldwide movement campaigning for an end to human rights violations. Help us to make a difference.

- Make a donation to support Amnesty International’s work.
- Tell your friends, family, neighbours and co-workers about your commitment to human rights.

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