

RAPE AND SEXUAL ABUSE: Torture and Ill-treatment of Women in Detention

Just before midnight on 18 May 1990 a bus carrying 27 members of a family wedding party approached a roadblock manned by soldiers of the Border Security Forces (BSF) near Badasgam village in Kashmir, India. As the bus rolled to a halt, the soldiers opened fire, killing the bridegroom's brother and wounding at least nine others, including the bride - 18-year-old Mubina Gani - and her husband. "We lay down under the seats and pretended to be dead," she said. "After the shooting they came inside and started to beat everyone." Some of the soldiers dragged the new bride and her heavily-pregnant aunt into a nearby field. "We were crying bitterly. I told them that I had not yet seen my husband. But they didn't listen. They took off our clothes...and then we were raped. Four to six men raped me, I think." Suffering from shock and gunshot wounds, Mubina Gani was taken away and held in military custody for 48 hours. Indian officials initially claimed that the bus had accidentally been caught in a cross-fire. However, the Superintendent of the Anantnag police later confirmed that the BSF had fired on the bus indiscriminately and that the two women had been gang-raped. Four BSF soldiers were apparently suspended from duty, but no further legal or disciplinary action appears to have been taken.

The most unusual thing about this incident is the fact that it has been publicly reported. In countries around the world, government agents use rape and sexual abuse to coerce, humiliate, punish and intimidate women. When a policeman or a soldier rapes a woman in his custody, that rape is no longer an act of private violence, but an act of torture or ill-treatment for which the state bears responsibility. International law obliges governments to protect all men, women and children from torture and ill-treatment, and requires that allegations of torture be promptly and impartially investigated. Thorough investigation and prosecution of those responsible sends a clear message that human rights violations will not be tolerated and that those who commit such acts will be held fully accountable.

Yet many governments persistently refuse to recognize that rape and sexual abuse by government agents are serious human rights violations. In country after country effective investigations into cases of rape do not take place nor

are the perpetrators brought to justice. From the emergency zones of Peru, for instance, AI has received dozens of reports of members of the security forces raping women and girls. AI knows of no official investigations into such incidents since the state of emergency was first declared in October 1981 and the current government has not demonstrated the political will to institute such investigations. In 1986 a Peruvian prosecutor told an AI delegation in Ayacucho that rape was to be expected when troops were conducting counter-insurgency operations, and that prosecutions for such assaults were unlikely.

Even when public outrage forces officials into conducting investigations and prosecutions, the punishments imposed by the courts on government agents found guilty of rape are seldom commensurate with the enormity of the crime. In late 1989, a 30-year-old Indonesian widow was repeatedly raped by three police officers and one police auxiliary at the police station in Geumpang. When the rape was reported to the people of her village they stormed the police station and had to be forcibly dispersed by soldiers from the local military command. The Chief of Police subsequently promised to investigate, and the three police officers were tried in a military court in June 1990. Two of them received seven-month sentences and were dismissed from the police force. The third officer was sentenced to one year, but was not dismissed from the force because he was about to retire.

Although men are sometimes raped in custody by government agents, it is a form of torture primarily directed against women, and to which women are uniquely vulnerable. Women are also more likely to suffer sexual abuse and harassment short of rape, including fondling, verbal humiliation, excessive body searches, and other intentionally degrading treatment. Even the threat of rape can be an effective weapon of psychological terror. The experience of being forced to contemplate the prospect of a violent and humiliating assault can be as terrifying and emotionally damaging as the attack itself.

When governments use military force to suppress armed insurgency movements, troops are often given extensive powers and are not held

accountable to civilian legal authorities for their actions. In the course of counter-insurgency operations, government soldiers sometimes use rape and sexual abuse to try and extract information from women suspected of involvement with the armed opposition or even to punish women who simply live in areas known to be sympathetic to the insurgents. The indiscriminate use of torture and ill-treatment also helps create a permanent sense of fear and insecurity, against which the capacity for independent political action can be dulled or thwarted. The official failure to condemn or punish rape gives it an overt political sanction, which allows rape and other forms of torture and ill-treatment to become tools of military strategy.

Women's groups in the Philippines have documented cases of rape and sexual abuse of women detained during military operations. The victims have included human rights workers, members of legal political or social organizations thought by the military to be fronts for the armed opposition and villagers living in areas of suspected rebel activity. In December 1990, 21-year-old Cherry Mendoza and Cecilia Sanchez, aged 20, were arrested in a Bataan street by about 30 members of the Philippines Constabulary and the Philippines Army. The two women were searched and found to be carrying cigarettes and sweets; military officials later claimed these were provisions for the armed rebels. Soldiers took the women to a military camp in Morong. During interrogation sessions, Cherry Mendoza was beaten, sexually abused and possibly drugged. When she regained consciousness her body was sore and aching, her trousers were undone and her underwear was stained with blood. She realized she had been raped only when she heard the soldiers laughing about how "Sir has scored on her". A medical examination nine days after her arrest confirmed that her hymen and vagina had been severely lacerated. Cecilia Sanchez also alleged sexual abuse. The two women were held for four months on charges of subversion before being bailed. The Provincial Director of Philippine National Police denied accusations of sexual abuse, and referred to Cherry Mendoza and Cecilia Sanchez as "communist terrorists", captured during a successful military operation. Cherry Mendoza has filed an official complaint about her treatment.

Cherry Mendoza

Soldiers of the National Resistance Army (NRA) of Uganda have raped women and girls while "screening" villagers suspected of supporting or sympathizing with the rebels. Over a period of three days in April 1991, for instance, soldiers reportedly detained and interrogated villagers from all over the Gulu District. At least three men were extrajudicially executed, and a number of women, some of them elderly, were raped and beaten.

In India reports of army personnel raping women have become so persistent that the Assam High Court issued an order in March 1991 prohibiting soldiers from taking women to army camps for interrogation. In July 1991 India's Supreme Court ordered the army in the northeast to take special measures to protect women from torture and sexual harassment during army operations.

Women who are political activists, community organizers, or human rights workers have been targeted because they are strong. Soldiers and policemen use rape or sexual abuse to humiliate these women and sometimes to punish them for their political or social independence.

Eva Judith Gálvez, a Guatemalan trade unionist, was abducted in May 1991. She was taken to a clandestine detention centre and questioned about her association with two other trade unionists - Dinora Pérez Valdez, who had been murdered in Guatemala City in April, apparently by government agents, and Irene Diéguez. When Eva Gálvez denied knowing the two women she was beaten, stripped naked and subjected to physical sexual abuse. She was kept naked throughout her interrogation. "One of them began playing with me," she recounted, "he said

that they would all have me if I didn't tell them what I knew. ... I began to cry and told him that I didn't know anything." Eva Gálvez was released near Guatemala City. Fearing further arrest and ill-treatment, she fled the country and has now been given asylum in Canada.

Maria Nicolaidou was among 33 young men and women detained in Athens, Greece on 2 November 1991 after policemen found them sticking up political posters. The detainees were taken to a police station, where all 12 of the women were ordered to strip naked and were kept in an open room in full view of a number of policemen, who made obscene gestures and comments. Several of the women said they were beaten by police officers. Although Maria Nicolaidou informed the police officers that she was three months' pregnant, she says: "they did not hesitate to hit me on the head... A senior officer...grabbed me by the hair and beat my head against the wall... insulting me with words such as whore and tramp." Newspaper reports described her as "extensively bruised" when she appeared in court on 5 November. On 13 November the 33 were sentenced to six months' imprisonment on charges including the illegal posting of bills and "verbal abuse". Fifteen of the detainees have filed a suit against the police for bodily harm and abuse.

Maria Nicolaidou

In many countries policemen use sexual harassment and threats of rape as an interrogation tactic. The interrogators may be after something specific, like information or a signature on a confession, or they may simply want to frighten the victim and other local women. Rose Ann Maguire was arrested in July 1991 in Northern Ireland and held for five days in Castlereagh interrogation centre. During questioning sessions, she was reportedly sexually harassed, physically abused and threatened with death. She said that on one occasion a detective slapped her, pulled her by the hair, fondled her breasts and put his hand between her legs. "They were just trying to degrade you all the time," she said. Rose Ann Maguire was released without charge. At least three other young women interrogated at Castlereagh in 1991 have reported incidents of sexual harassment.

Rose Ann Maguire *c. Pacemaker*

Dozens of Palestinian women and children detained in the Israeli-Occupied Territories have reportedly been sexually abused or threatened in sexually explicit language during interrogation. Fatimah Salameh was arrested near Nablus in July

1990. Her interrogators allegedly threatened to rape her with a chair leg and told her they would photograph her naked and show the pictures to her family. "They called me a whore and said that a million men had slept with me," she said. Fatimah Salameh agreed to confess to membership in an illegal organization and was sentenced to 14 months' imprisonment. Seventy-year-old Wadhah 'Abd al-Hafez al-Shubaki was starting her pilgrimage to Mecca when she was detained at the border with Jordan. The elderly woman was stripped naked and body searched before being moved to the "Russian Compound", a police detention centre in Jerusalem. She said she was held in solitary confinement for seven days and that she was repeatedly beaten while interrogators made sexually explicit and humiliating remarks to her. She was later released without charge.

In Turkey rape and sexual abuse are frequently used in attempts to extract confessions from both men and women during interrogation. Günay Korkut, a 20-year-old Turkish university student, was arrested in May 1991. She was blindfolded and taken to Adana Police Headquarters, where she was accused of complicity in the murder of Brigadier Temel Cingoz, Regional Commander of the Gendarmerie. Over the course of her first week in captivity, she said she was repeatedly stripped, hung up by her wrists with leather straps, tortured with electric shocks and sexually molested. "I told the police that I was only a member in a legal student association... They told me that only militant political students joined the association." When Günay Korkut continued to deny their accusations her interrogators laid her naked on blocks of ice and applied electric shocks to her feet, breasts and genitals. She said she eventually fainted, and when she revived she noticed blood coming from her vagina. Her interrogators later told her that she "was no longer a virgin". Four days later, when they threatened to repeat the torture, Günay Korkut signed a prepared confession, which she said she was not allowed to read. She spent a total of 16 days in police custody before being committed to prison. On 5 August the Malatya State Security Court ordered her release, but her trial continued. Günay Korkut filed a formal complaint about her torture, which was passed to the local civil administration for evaluation.

Some women are raped or sexually abused because they happen to be the wives, mothers, daughters or sisters of men the authorities cannot capture. These women become substitutes for the men in their families, and government agents torture

and abuse them to punish and shame their male relatives or to coerce these men into surrendering.

In Bangladesh tribal women in the Chittagong Hill Tracts have been raped by members of the security forces in apparent reprisal attacks against the men of the community, some of whom are active in armed movements for regional autonomy. In October 1990, for instance, soldiers waylaid a group of about 25 tribal people at Bilai Chari Para in Rangamati district. Fourteen girls were taken at gunpoint to nearby huts, where they were stripped naked, beaten and repeatedly raped. A military officer later admitted that the girls had been "possibly manhandled", and said that two of the soldiers involved had been arrested and three others dismissed from the service. It is not clear whether any of the soldiers have been charged with a criminal offence. A 17-year-old girl from the village of Baghaichari was brutally raped because her brother was suspected of being a political activist. The girl recognized one of her attackers, a lieutenant. "He raped me, followed by another soldier," she said. "Each one raped me twice. The lieutenant said to me that he was also going to rape my sister-in-law and that was the price we were to pay for my brother's activities. Later I went inside the house and found my sister in law bruised and unconscious. They found her and two of them raped her."

In the Casamance region of Senegal women have been tortured because of their relationship to suspected members of the independence movement, which was active until a peace agreement was reached in May 1991. In June 1990, for instance, soldiers searched the village of Kabiline for Tata Sadio, a suspected member of the Casamance Democratic Forces. When they were unable to find him they arrested his pregnant wife Binta Niassy. The soldiers forced her to lie face down in an army truck while they stood on top of her and beat her with rubber whips. She was released without charge but suffered a miscarriage several days later.

Pregnant women who are tortured or held in inhumane conditions face the additional threat of suffering miscarriage or permanent injury. The special needs of pregnant women are recognized in international instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners. Some governments not only ignore these needs, but take advantage of the vulnerability of pregnant women to inflict severe physical and emotional pain.

Wafa` Murtada was a 27-year-old civil engineer and nearly nine months pregnant when the Syrian authorities arrested her in September 1987. The authorities apparently suspected her husband, Yahya Murtada, of belonging to a banned opposition group and tried to extract the names of his associates from her through torture. Wafa` Murtada gave birth in prison and lost her child, apparently because of the torture. She was held without charge or trial until her recent release from Fara` Falastin detention centre in Damascus.

In Mexico two pregnant women were among 15 members of the Irapuato Popular Settlements Union (UCOPI), an organization prominent in the defence of peasants' land rights, who were detained without warrants by the public security police in January 1990. Both women said they were beaten on the stomach in custody and one of them, Amalia Chávez Negrete, reportedly miscarried as a result. One of the other women was partially undressed and pushed out into the street in her underwear. All of the women were reportedly threatened with rape.

Some governments pursue policies that result in persistent human rights violations against people of particular ethnic or national origin. Indigenous peoples, who are often denied civil and political rights, have little recourse against the governments that allow these violations to occur. Those who work on their behalf have also been attacked. Sister Diana Ortiz, a Roman Catholic nun from the United States of America, went to San Miguel, Guatemala in 1987 because "it was an indigenous community and the indigenous people of Guatemala have suffered the most." Over the next two years she received a series of death threats related to her work in the community. On 2 November 1989 two men abducted her from the garden of a religious retreat in Antigua and turned her over to uniformed police officers driving an official police car.

Sister Diana Ortiz

Sister Ortiz was blindfolded and taken to a warehouse near Guatemala City. For the next 12 hours she was questioned, beaten, burned with cigarettes over 100 times on the back and breasts, raped and sexually abused in ways she later referred to as "too horrible to describe". Sister Mary Ballard, who worked with Sister Ortiz in the indigenous community of San Miguel, later said "There's not one single family up there that doesn't have members either `disappeared' or killed. The fact that Diana was kidnapped, tortured and raped is unusual only because she's still alive.... I think the message they're sending to the church is clear: Don't help the indigenous, don't help the poor."

All government agents who encourage, condone or participate in the rape of women in their custody should be brought to justice. Yet many of the perpetrators go free because their victims are too terrified or ashamed to file a complaint. Some women try to obliterate the memory of the assault; others feel degraded and fear that they would be shunned or abandoned if they reveal what has been done to them. In some traditional societies raped women are thought to be tainted or defiled, and the economic and social pressures to conceal a rape can be considerable: if a married woman is raped, her husband may exercise his right to desert her; a single woman who has been raped may no longer be seen as fit for marriage. The mother of two young women raped by soldiers in India asked afterwards: "What man will marry them now [that] their lives have been ruined?"

Many rape victims are threatened with additional violence if they complain to anyone about the attack. In September 1990, 21-year-old Amanda Guerra López, Lester Mozombite Cartagena, aged 23, and three teenagers - two boys and a 15-year-old girl - were ordered to get out of a bus by an army lieutenant at a checkpoint near the Km. 86 military

base on the Federico Basadre Highway in Peru. The five were taken into the base where the teenagers were separated from the adults. Amanda Guerra López was reportedly raped and beaten before she and Lester Mozombite were "disappeared". The 15-year-old girl said she was raped by eight soldiers, and she and the two boys were beaten. The three teenagers were released four days later, after being threatened with death if they reported the incident. They are still too frightened to have their names made public. The authorities denied any knowledge of the detentions and have apparently refused to open an independent judicial inquiry into the allegations of rape and "disappearance".

And some governments maintain legislation making it possible for the victims of rape to be charged with criminal offences. Under Pakistan's Hudood Ordinance, women convicted of extra-marital sexual relations - including rape and adultery - can be sentenced to be publicly whipped, imprisoned or stoned to death. In August 1989 two nurses were raped at gunpoint by three interns in a Karachi hospital. One of the victims tried to file a complaint and was herself charged with admitting to sexual intercourse. As a result of the charges she has lost her job and her marital engagement has been broken off. "No one else can ever know how I feel inside," she said. "I may seem all right on the outside but inside I feel as if I no longer exist."

Through their failure to institute adequate investigations, prosecutions and procedural safeguards, governments around the world bear full responsibility for the persistence of widespread rape and sexual abuse in custody. Women are entitled to the protection of their fundamental human rights. But many governments clearly regard rape and sexual assault as less serious offences than other human rights violations. This is a particularly frightening prospect when the perpetrators of these rapes are those same policemen and military personnel charged with the protection of the public.

Members of the Peruvian military

A 40-year-old tribal woman raped by Bangladeshi government soldiers as they raided her village in the Chittagong Hill Tracts in 1989 said: "The soldiers said they were going to teach us a lesson. While some pinned us down the others raped us. We had already heard the sounds of bullets and the screams of our men being beaten up. So we did not have any courage to protest and had to meekly surrender to the torture."

Many women believe it futile to pursue rape complaints against the police or military, since the authorities who condone such abuses are unlikely to take energetic action to punish the perpetrators. In the Philippines in January 1991 three soldiers reportedly held 14-year-old Julie-An de la Vega in a foxhole near Malicbong, Abra, while they took turns raping her. The girl recognized the rapists and swore out a criminal complaint at the Office of the Provincial Prosecutor. Although witness statements and a medical report supported her rape allegations, no action has been taken against Julie-An de la Vega's attackers.

Eight steps to prevent rape, sexual abuse and other torture and ill-treatment of women in custody

1 MAKE GOVERNMENT POLICY CLEAR

< Government officials must publicly emphasize that rape and sexual abuse by government agents are grave and intolerable human rights violations. Military, police and prison personnel must be explicitly informed that anyone who commits such human rights violations will be promptly brought to justice.

< All military, police and prison personnel should be trained in the basic principles of international human rights law, particularly those reflected in the United Nations Code of Conduct for Law Enforcement Officials, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

< Governments should ensure that women are not deterred from reporting rape and sexual abuse by threats of legal action against them, other harassment or reprisals.

< Governments must recognize that rape and sexual abuse are forms of torture or other cruel, inhuman or degrading treatment, and thus prohibited under international law. Sexual abuse is not limited to physical assault, but includes rape threats, fondling and the deliberate use of body searches or sexually-explicit language to degrade or humiliate the detainee or prisoner.

2 PROTECT WOMEN FROM RAPE AND SEXUAL ABUSE DURING INTERROGATION

< Female staff should be present during the interrogation of female detainees and prisoners and should be solely responsible for conducting body searches.

< Statements or confessions extracted from detainees as a result of torture or ill-treatment -- including rape and sexual abuse -- must never be admitted in legal proceedings against them.

< All detainees should have the right to have a lawyer present during interrogation.

< Officials should record the time and duration of all interrogation sessions and the identity of all persons present during these sessions.

3 IMPLEMENT AND ENFORCE LEGAL SAFEGUARDS

< Detainees and prisoners must be held only in officially recognized detention centres. A list of such centres should be regularly published and widely available.

< All forms of detention or imprisonment must be supervised and controlled by judicial authorities.

< All detainees and prisoners must be given written information about the regulations governing their treatment, including procedures for seeking information and making complaints. If a detainee or prisoner is unable to read the information provided, it must be read aloud in a language he or she understands.

< All detainees must be brought before a judge promptly after arrest.

< All detainees and prisoners must be given prompt and regular access to family members and legal counsel.

< Female detainees and prisoners must be held separately from male detainees and prisoners, and must not share bathing or toilet facilities.

< There should be no contact between male guards and female detainees or prisoners unless a female guard is present. A female staff member should be present when women are detained overnight.

< Governments should ensure strict compliance with the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which provides practical safeguards for detainees and prisoners.

4 PROVIDE ADEQUATE HEALTH CARE

< All detainees and prisoners must be given the opportunity to have a medical examination promptly after being taken into custody and regularly thereafter. They should also have the right to be examined by a doctor of their choice.

< Adequate pre-natal and post-natal care and treatment must be provided for female detainees and prisoners and their infants.
< Any female detainee or prisoner who alleges that she has been raped or sexually abused must be given an immediate medical examination, preferably by a female doctor. This is a crucial measure in obtaining evidence for legal prosecution.

5 CONDUCT PROMPT AND IMPARTIAL INVESTIGATIONS

< All reports of rape, sexual abuse and other forms of torture or cruel, inhuman or degrading treatment must be promptly, thoroughly and impartially investigated.

< All soldiers, police officers, prison personnel or other government agents who commit, encourage or condone rape and sexual abuse or any other human rights violations must be brought to justice.

< Women who bring charges of rape or sexual abuse against military, police or prison personnel must be effectively protected from harassment or reprisals.

6 PROVIDE COMPENSATION AND REHABILITATION

< Governments must provide all victims of torture and ill-treatment -- including rape and sexual abuse in custody -- with rehabilitative medical treatment and financial compensation.

7 RATIFY INTERNATIONAL INSTRUMENTS FOR THE PROTECTION OF HUMAN RIGHTS

< Governments should ratify international legal instruments which provide for the protection of women's human rights, such as the International Covenant on Civil and Political Rights and its two Optional Protocols; the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Elimination of All Forms of Discrimination against Women.

8 SUPPORT THE WORK OF RELEVANT INTERGOVERNMENTAL ORGANIZATIONS

< Governments should publicly state their commitment to ensuring that the intergovernmental bodies which monitor violations of human rights suffered by women, including the United Nations Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women, have adequate resources to carry out their task effectively.

Protections provided by international standards

The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture prohibit all acts of torture and cruel, inhuman or degrading treatment or punishment, which includes rape and sexual abuse by government agents. Amnesty International's recommendations are based on the practical safeguards for detainees and prisoners provided in the Convention against Torture and in the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Convention against Torture requires each State Party to "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction".

International standards, including the Convention against Torture, require states to undertake prompt and impartial investigations into all allegations of torture and cruel, inhuman or degrading treatment, and to bring the perpetrators of torture to justice. These standards prohibit any statement which is established to have been made as a result of torture or ill-treatment from being used as evidence against the victim. The Convention against Torture also requires that anyone who complains about torture or ill-treatment, and any witnesses, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given. It provides that states shall ensure through their legal systems "that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible".

Denying adequate medical care to detainees can constitute ill-treatment. The United Nations Standard Minimum Rules for the Treatment of Prisoners stipulate that all prisoners must be provided with adequate medical services. In addition these Rules recognize the special needs of pregnant women and nursing mothers held in official custody and require that such women be provided with "all necessary pre-natal and post-natal care and treatment".