Ending Torture in Zimbabwe

Introduction

Zimbabwe's history has been tainted by allegations of gross human rights violations. One serious human rights violation that has characterized this history is torture. Since its inception in 1998, the Zimbabwe Human Rights NGO Forum (the Forum) has been concerned with, and working on issues of Organized Violence and Torture (OVT). From the beginning, the Forum has documented a lot of cases of gross human rights violations, especially torture. Claims of torture have been leveled mainly but not exclusively, against state agents such as police, army and other state security agents. Groups affiliated to the then ruling ZANU PF party such as Liberation War Veterans and youth militia operating under the National Youth Training Programme commonly known as the “Green Bombers” have also been implicated. Torture in Zimbabwe mostly occurs during major political events such as elections. The police have also been accused of using it during investigations. Several research initiatives on torture and documents on this grossly unacceptable practice in Zimbabwe have been produced.

On 15 September 2008, the leaders of the three main political parties in Zimbabwe, President Robert Mugabe (ZANU PF), Prime Minister Morgan Tsvangirai (MDC-T) and Deputy Prime Minister Arthur Mutambara (MDC-M) signed the Global Political Agreement (GPA). This Agreement led to the formation of an inclusive government in February 2009. Since the creation of this inclusive government, no major efforts have been taken to end the practice of torture. It is against this background that this edition of the Human Rights Bulletin seeks to look at this practice of torture in Zimbabwe.

What is Torture?

Torture is the intentional infliction of severe mental or physical pain or suffering by or with the consent of state authorities for a specific purpose such as gaining information, or as a form of punishment or intimidation1. The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 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

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1As defined by REDRESS, March 2006: Ending Torture: A Handbook for Public Officials
kind, when such pain or suffering is inflicted by or at the
instigation of or with the consent or acquiescence of a
public official or other person acting in an official
capacity. It does not include pain or suffering arising only
from, inherent in or incidental to lawful sanctions”.

According to this definition, torture involves the
following elements
1. the deliberate causing of severe pain and
   suffering, whether physical or mental;
2. the purpose of causing such pain or suffering
   must be
   o to obtain from the victim or another
     person information or a confession;
   o to punish the victim for an act that the
     victim or another person has committed or
     is suspected of having committed;
   o to scare or force the victim or another
     person; or
   o for any reason based upon discrimination
     of any kind;
3. the pain or suffering must be inflicted by or at
   the instruction of or with the consent or
   agreement of a public official or other person
   acting in an official capacity.

Different Forms of Torture

The practice of torture in Zimbabwe and elsewhere
in the world has taken different forms. Depending
on the method used, torture can either be physical or
psychological.

Physical torture includes beatings, electric shocks,
burns, sexual torture, stretching, submersion and
suffocation.

The most common methods of physical torture
recorded over the years in Zimbabwe are beatings,
electric shocks, burns, submersion, suspension and
sexual torture.

Beatings

Of these methods, beatings are the most common
form of torture in Zimbabwe. There are certain
beatings that have acquired names - for instance,
beating on the soles of the feet with a solid object is
called “Falanga” and the hitting of both ears
simultaneously with the palms of the hands is
called “Telefono”.

Electric shocks

The source of electric shocks is mainly power
outlets. Electric probes are often placed on sensitive
organs, such as earlobes and genitalia. Long-term
physical marks from electric shocks are barely
noticeable.

Burns

Victims of torture may endure chemical, thermal,
and electric burns. A wide variety of objects are
used to inflict this type of injury. They include
cigarettes, hot irons, gas torches, ice, hot liquids like
water and oil, electricity from power outlets, acids,
and other caustic material.

Submersion

Victim’s head is immersed in pits of water, sewage,
urine vomit, etc, at intermittent periods.

Suspension

Victims are suspended by wrists, ankles, arms or
hair.

Sexual torture

Sexual torture includes inflicting pain to genitalia
(e.g. suspension of heavy objects from the genitalia
and castration) and rape.

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3 For a detailed analysis of this practice in Zimbabwe, see Only Bruises
on the Soles of their Feet! Torture and Falanga in Zimbabwe, 2009,
Zimbabwe Human Rights NGO Forum
**Psychological torture**

This includes methods such as isolating, threats, humiliation, mock executions, mock amputations and witnessing the torture of others.

**Consequences of torture**

Depending on the torture method used, the effects of torture vary. Torture can result in:
- Death of the victim
- Permanent disability or loss of human organ/s
- Loss of dignity/self respect
- Mental health problems such as post-traumatic stress disorder and major depression
- Loss of faith in the rule of law

**Victims of torture in Zimbabwe**

Over the years, torture has generally been directed but not exclusively, at known or perceived supporters of opposition to the then ZANU PF government. This has been done largely to punish them for holding dissenting views and to force them to change their political beliefs.

Other victims of torture have been those suspected to have committed criminal offences. This is usually done by the police while the victim is in custody to extract information during investigations.

**International Law and Torture**

Torture is prohibited in a number of international human rights instruments. Article 5 of the Universal Declaration of Human Rights states that:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Zimbabwe has ratified the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples Rights. Both these instruments clearly prohibit torture in Articles 21 and 5 respectively.

However, it has not ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which entered into force on 26 June 1987.

Some 146 countries have ratified this important Convention. These include nearly every Southern African country. African countries that have ratified the Convention include Botswana, Lesotho, Malawi, Mozambique, Namibia, Nigeria, South Africa, Swaziland and Uganda.

**What can be done to eliminate torture in Zimbabwe?**

Although the Constitution of Zimbabwe prohibits torture in section 15(1), there are no laws that specifically outlaw or define it. This is a serious shortcoming in the quest to end torture in Zimbabwe.

The first step in eliminating torture in Zimbabwe is for the government to ratify the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

According to Veritas, a local organization involved in monitoring Bills and activities of Parliament in Zimbabwe, Parliament agreed, some years ago, that Zimbabwe should become a party to this Convention but that agreement has not been followed up by the Government. Veritas further

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1Veritas, July 2009 Peace Watch: Torture is totally unacceptable
reported that when the Co-Minister of Home Affairs, Giles Mutsekwa, was asked on 1 April 2009 why Zimbabwe had not ratified the Convention, he replied that he was looking into why the papers prepared in 1995 had not been processed. He has not reported to Parliament since then.

The second step, as set out in this Convention is that Zimbabwe ought to enact legislation that totally outlaws torture. Ratification of CAT alone is not enough. Zimbabwe needs to include provisions of CAT into its domestic laws.

The police should be retrained in proper methods of interrogation and desist from the use of torture when performing their duties.

The significance of the Torture Convention

In its introduction, the Convention states that State Parties are keen to make “more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world.”

This is a noble goal that Zimbabwe should strive to pursue as well.

The Torture Convention contains a series of provisions that are indeed likely to make the international struggle against the use of torture far more effective. Some of these are set out below.

A State Party to the Convention is obliged to “take effective legislative, administrative, judicial and other measures to prevent acts of torture in any territory under its jurisdiction.”

A State Party is not entitled to invoke as a justification for torture any exceptional circumstances, whether a state of war or a threat of war, internal political instability or any other public emergency.

An order from a superior officer or a public authority may not be invoked as a justification for torture.

A State Party must ensure that all acts of torture are offences under its criminal law and it must make these offences punishable by appropriate penalties that take into account their grave nature.

Conclusion

On 26 June each year the world comes together to commemorate the International Day in Support of Victims of Torture, a day set aside by the United Nations. During this year’s commemoration of this day, the Forum officially launched its campaign for the ratification of CAT. The Forum urges the inclusive government to take serious steps to ensure that torture is outlawed in Zimbabwe.

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1Adapted from Only Bruises on the Soles of their Feet! Torture and Falanga in Zimbabwe, 2009, Zimbabwe Human Rights NGO Forum