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Myanmar: Take immediate steps to safeguard against torture

On International Day in Support of Victims of Torture, Amnesty International calls on the Myanmar authorities to take swift and concrete steps to safeguard against torture.

As a first step, Amnesty International calls on the Myanmar government to fulfil – as a matter of priority – its public commitment to ratify the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Ratification would be an important step towards eradicating torture and other ill treatment, and ensuring that victims and their families can access justice and other effective remedies for the harm they have suffered.

Despite the government's repeated promises to uphold the rule of law and reform the security sector, Amnesty International continues to receive credible reports of acts of torture and other ill-treatment committed by the police and military with complete impunity. The organization has documented cases of police torture and other-ill-treatment which have occurred in the past two years. Some of these cases involved the torture of children, others involved the torture of entire families, and some led to deaths in custody. Prevailing impunity means perpetrators are rarely, if ever, held to account despite their identities often being well known, and ensures victims suffer in silence.

In one case last year, in July 2013, a child, aged 13, told Amnesty International researchers that he was arrested without a warrant or being informed of any suspicions against him. Police tortured him for over one month in an attempt to extract a confession for the murder of his neighbour. The methods of torture included repeatedly dunking his head in water; burning various body parts with a lighter, including eyes and fingernails; jumping repeatedly on his legs and heels; spitting betel nut juice into his mouth; and forcing him to kneel on sharp stones. The child said that although he told the judge at his remand hearing that he had been forced to confess – which under national regulations should spark an immediate investigation by the court – the judge remained silent and instead approved ongoing pre-trial detention. The child has been permanently disabled by the torture he suffered.

In another case from September 2013, a 15 year old boy was arrested while at a park watching football with his friends. According to the boy's father, police accused him of extorting money from travellers on a nearby road. During interrogation the police hit the boy's ankles around 30 times with a baton, lit a match to his genitals and threatened to force feed him faeces if he did not confess. They also threatened to shoot him. The boy did not confess and was released with no formal charges. He suffers from ongoing back, head, and knee pain.

Although in both cases complaints were lodged with the police, Amnesty International is not aware of any independent investigation into the allegations of torture in either case.

In his final report to the United Nations Human Rights Council, the outgoing Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, expressed concern about the continuing practice of torture in places of detention and the lack of accountability for such acts. He also highlighted concern about allegations of torture during the interrogation of Kachin men detained in the context of the ongoing fighting in Myanmar's Kachin and Northern Shan states.

The Special Rapporteur noted that “[c]urrently, prompt, effective and impartial investigations into allegations of torture against police and military personnel do not take place in Myanmar”.

Torture is not specifically and explicitly prohibited in Myanmar law, creating a situation where acts of torture can more easily go unpunished. Currently, there are no adequate mechanisms in law or practice that allow for victims of torture and other ill-treatment to safely complain about the treatment they suffer, for suspected perpetrators to be held to account, or for victims and their families to receive adequate reparations.

Under international law, torture and other ill-treatment are absolutely prohibited and cannot be justified under any circumstances whatsoever. This prohibition, enshrined in Article 5 of the Universal Declaration of Human Rights, has achieved such a strong international consensus that it has become a rule of customary international law, which is binding even on states which have not joined the relevant human rights treaties. This consensus is reflected in the fact that torture and other ill-treatment are prohibited absolutely during both international and non-international armed conflicts, for instance under all four Geneva Conventions, which have been ratified by every single state in the world, including Myanmar. From this binding prohibition stem obligations to prevent, investigate and punish torture, as well as to provide victims with access to effective remedy, a principle also enshrined in Article 8 of the Universal Declaration of Human Rights.

The ratification of CAT should be followed swiftly by the adoption of legislation incorporating its provisions into domestic law, in particular the criminalization of torture, and the development of a concrete strategy to ensure safeguards against torture and other ill-treatment are implemented in practice. As a priority, the Myanmar authorities should ensure that all detainees have immediate access to lawyers of their choosing who should be able to attend all interrogations, that all detainees are brought promptly before an independent court where they could complain of any ill-treatment, that no one is held in incommunicado detention, and that there are regular, independent, unannounced and unrestricted visits of inspection to all places of detention in Myanmar.

Amnesty International also calls on the Myanmar authorities to ensure prompt, effective and independent investigations into all allegations of torture and other ill-treatment by members of the security forces. Those responsible – including those with command responsibility – must be brought to justice in fair trials, and victims provided with reparations.