

Gender-based Non-State Actor Torture

The Issue

Torture¹ by private individuals, families, groups or other non-State actors is an emerging, gender-based human rights violation. Non-State actors do not represent the state; this is in contrast to state actors, for example, police, military or embassy staff who are officials of the State. It is an absolute human right that women and girls (including infants) shall not be subjected to torture by non-State actors. States have a due diligence obligation to prevent and protect women and girls from gender-based torture perpetrated by non-State as well as State actors. Such perpetrators must be held accountable for their actions, and the legal and human rights of women and girls to seek justice must be secured.

Barriers to Redress:

- Most States do not currently have legislation that address the issue of non-State actor torture specifically;
- International human rights treaties only prohibit torture committed by state actors and do not address non-state actor torture;²
- Many victims are too traumatised to seek effective redress independently;
- Where laws and commitments do exist, they are often not enforced.

GWI's Position

Women and girls should not be subjected to non-State actor torture. States should adopt and enforce legislation and take all other necessary measures on a due diligence basis to protect victims and to deter and punish perpetrators.

In order to address the main barriers to redress for non-State torture victims, GWI urges states to **recognise and respect that everyone has the right to live free from torture from both state and non-state actors.**

GWI recommendations:

1. States should:
 - Ensure all appropriate measures are initiated into their laws, policies and practices to provide that no person, especially a woman or a child, is subjected to torture by non-State actors;
 - Allocate sufficient human and financial resources to protect citizens from non-State torture;

¹ "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." International Covenant on Civil and Political Rights (ICCPR) Article 7, see also Article 3 of the European Convention on Human Rights (ECHR).

² See Manfred Novak, "Not Only the State: Torture by Non-State Actors, Towards Enhanced Protection, Accountability and Effective Remedies" *Redress: Seeking Reparation for Torture Survivors*, May 2006.



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Policy Position

- Implement and enforce all relevant measures to combat non-State actor torture, including criminal prosecutions of perpetrators and judgments awarding compensation for victims in civil actions;
- Respect the priority of gender-sensitive frameworks on the UN agendas, given that women and girls are disproportionately affected by extreme forms of violence and torture by non-State actors;³
- Promote human rights education by incorporating at all levels the United Nations Declaration on Human Rights Education and Training.⁴

2. Victims should:

- Be encouraged to seek justice and redress for acts of gender-based torture committed by non-State actors, including support from community-based awareness programmes and the receipt of legal aid to pursue civil legal action.

³ States should pay special attention to the UN Committee against Torture (UNCAT) General Comment Number 2, highlighting information on gender-based manifestations of non-State torture victimisation.

⁴ United Nations Declaration on Human Rights Education and Training, adopted by the United Nations General Assembly in resolution A/RES/66/137 on 19 December 2011.