

REDRESS

Ending torture, seeking justice for survivors

BULLETIN

No. 3



**FIGHTING DISCRIMINATORY
TORTURE AND ENSURING
LASTING EQUALITY**

DIRECTOR'S LETTER

Standing with Survivors During the Covid-19 Pandemic

In recent months, **REDRESS** has stood with survivors of torture in more than 25 countries on three continents, and with anti-torture lawyers and activists all over the world.

The spread of the Covid-19 pandemic across the world has left many of our clients particularly vulnerable to abuse. Emergency laws introduced to control the spread of the outbreak have enabled many governments to use violence against minorities and have caused a worsening of conditions in some prisons. There have been multiple reports of police killings and other acts of violence in many countries around the world.

In Kenya, police have beaten and whipped people while enforcing social distancing. In Rwanda, several women were raped by soldiers enforcing the lockdown. Filipino officials have subjected people caught breaking lockdown rules to humiliating and abusive punishments, such as locking them in cramped dog cages.

While our offices remain closed, following government guidelines, **REDRESS** has put in place robust arrangements to try to offer the same level of support to torture survivors and their families during these difficult times. We are also monitoring the emergency measures put in place by some governments, and will continue to denounce any threats against the inalienable right of every person to be free from torture.

In our last bulletin, we highlighted the progress made in two of our cases, when we persuaded the UK Prime Minister to raise the torture of Jagtar Singh Johal with the Prime Minister of India, and the Foreign Office to grant diplomatic protection to Nazanin Zaghari-Ratcliffe. Sadly, both of our clients remain detained, and at risk of further harm, during the Covid-19 pandemic, making their plight more urgent than ever.

In the midst of the pandemic, there has also been some positive news. In March, the Inter-American Court of Human Rights issued a landmark judgment in one of our cases concerning Azul Rojas Marín, a transgender woman who was beaten and raped by several police officers in Peru in 2008.

The judgement has enhanced the rights of LGBT+ persons and set crucial standards with the potential to reduce the levels of violence suffered by this group across the world, including as a result of Covid-19 emergency measures. It is a timely judgment as we celebrate LGBT Pride Month in June, which commemorates the 1969 Stonewall Uprising, a tipping point for the LGBT+ rights movement.



Rupert Skilbeck,
Director of **REDRESS**

Follow Rupert on Twitter @RupertSkilbeck

Covid-19 and the Right to Medical Treatment

Some of our clients remain held in overcrowded prisons in poor conditions of detention. Some have underlying health conditions, as a result of torture, which makes them particularly vulnerable to a Covid-19 infection.

Jagtar Singh Johal was arrested and tortured in India in 2017, while he was in the country to get married. He is currently being held at Tihar Prison, one of the most overcrowded prison complexes in Delhi, where there have been reports of a Covid-19 outbreak.

Nazanin Zaghari-Ratcliffe was arrested in Iran in 2016 while visiting her parents on holiday with her 22-month-old daughter. She was released on furlough in March to her parent's house, as the virus swept through the Iranian prison population. The Iranian authorities have not decided yet if they will release her permanently, so she faces a continued risk if sent back to prison.

Failure to provide appropriate and timely medical assistance to prisoners may amount to cruel, inhuman or degrading treatment, or even torture. **REDRESS** has advocated for both Iran and India to meet their international obligations to provide adequate and prompt medical treatment to prisoners under their care.



© Courtesy Jagtar Singh Johal's family

Discriminatory Torture of an LGBT+ Person: Landmark Precedent

By Chris Esdaile, REDRESS' Legal Adviser

Follow Chris on Twitter @ChrisEsdaile



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In March, the Inter-American Court of Human Rights, the ultimate authority on human rights in the Americas, issued a landmark judgment in the case of Azul Rojas Marín. The ruling enhances the rights of LGBT+ persons and sets standards with the potential to reduce the levels of violence suffered by this group in the Americas and beyond.

The case was litigated for 11 years by REDRESS, the Center for the Promotion and Defense of Sexual and Reproductive Rights (PROMSEX) and the Coordinadora Nacional de Derechos Humanos (CNDDHH).

Azul Rojas Marín is a transgender woman, who at the time of the events identified as a gay man. She was detained late at night on 25 February 2008 by members of the Peruvian police while she was walking home. They insulted her and made derogatory remarks about her sexual orientation. She was forcibly taken to a police station and kept there for almost six hours, although her detention was not officially registered. During her detention, she was stripped naked, beaten repeatedly and anally raped with a police baton.

In its ruling, the Inter-American Court found Peru responsible for the torture and sexual violence suffered by Azul and ordered Peru to redress the damage to her and her late mother, who had supported Azul in her search for justice. Significantly, it also ordered Peru to adopt measures to tackle structural discrimination, to protect other members of the LGBT+ community from similar violence, something which Peru had challenged during the litigation.

“I have no words to describe how I feel. After all that I have been through, finally a court believes me.”

Azul Rojas Marín,
after learning of the judgment.

The Azul case is the first case of discriminatory torture ever decided by a human rights court. It crucially enhances the protection of LGBT+ persons from violence and discrimination.

Through this case, the Inter-American Court has developed the concept of “violence motivated by prejudice”. It has also concluded that discrimination based on sexual orientation can lead to the arbitrary detention of LGBT+ people; it has developed its understanding of discriminatory torture, and it has set specific due diligence standards to ensure the effective investigation of these cases.

The case of Azul is not an isolated decision to protect LGBT+ rights in the Inter-American human rights system. Both the Inter-American Commission and the Inter-American Court have been at the forefront of the protection of LGBT+ rights. However, the Azul case goes a step further and complements other key European Court of Human Rights cases such as *M.C and A.C v. Romania* and *Identoba and Others v. Georgia*.

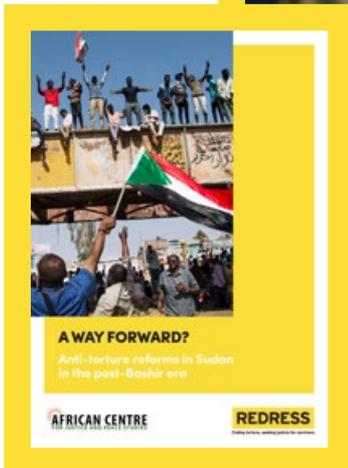
In those cases, the European Court found violations of the prohibition of torture and ill-treatment and discrimination in relation to some of the participants in peaceful LGBT+ demonstrations, considering the States’ failure to protect demonstrators from homophobic violence and the lack of effective investigations.

The decision is also a wake-up call for States, at a time when some governments responded to Covid-19 by adopting a gender-based alternating lockdown schedule, which took into account only the sex that appears in identity documents, and led to discrimination.

The finding that the arbitrary detention of LGBT+ persons can be inferred when there are signs of discrimination and no other apparent reason for the detention could be crucial to combat arbitrary arrests of LGBT+ people around the world, for reasons based on a person’s sexual orientation or gender identity, including in the context of Covid-19.



Watch this story on YouTube:
<https://youtu.be/qfx1DF1J2gl>



A Roadmap for Eradicating Torture in Sudan

By **Charlie Loudon**, REDRESS' Legal Adviser

Follow Charlie on Twitter on @CharlieLoudon

The use of torture in Sudan has been endemic during the last three decades. Under the regime of Omar al-Bashir, security forces, militias and police practised the most brutal forms of torture to silence their critics and terrorise communities.

Despite the change in regime in April 2019 and the abolition of some of the laws that promoted torture, torture at the hands of the Sudanese army and the Rapid Support Forces militia has continued.

At a critical juncture in Sudan's history, a new report from REDRESS and the African Centre for Justice and Peace Studies (ACJPS), *A Way Forward? Anti-Torture Reforms in Sudan in the Post-Bashir Era*, identifies priorities for reform to end the systematic practice of torture, punish the perpetrators and provide reparations for the victims.

Over the years, several laws and policies have allowed torture to continue, including a system of immunities that ensured that anyone who committed torture remained above the law and the absence of any system of remedies for victims.

As part of a joint project, REDRESS and ACJPS have been advocating for domestic law and policy reforms to end the deep-rooted practice of torture in Sudan, using this joint report, policy briefings and litigation.

REDRESS has been advocating for law reform in Sudan for more than a decade. Last year, we welcomed changes to public order laws that targeted women for ill-treatment, following the recommendations in our 2017 report *Criminalisation of Women in Sudan: A Need for Fundamental Reform*.

Perpetrators of Serious International Crimes Must Not Evade Justice

By **Julie Bardeche**, REDRESS' Legal Adviser

Follow Julie on Twitter on @JulieBardeche

In April, the former Chadian dictator Hissène Habré was granted a two-month release from a Senegalese prison, where he was serving a life sentence for crimes against humanity, war crimes and torture. His legal team had requested his release, arguing that the risk of him being infected with Covid-19 in jail was high.

Also in April, Sudan's former President Omar Al-Bashir, who is wanted by the ICC to face trial for war crimes and crimes against humanity, requested a release or transfer to house arrest, following reports of a coronavirus outbreak in Kober prison, where he is currently serving a two-year sentence for corruption and illicit financial gains.

While recognising States' obligations to protect the rights to health and personal integrity of detainees under their care, REDRESS has reiterated that the granting of amnesties and pardons for crimes against humanity are incompatible with internationally recognised human rights, would breach the rights of victims and further prolong their suffering.

More recently, REDRESS has written to UN experts and the Attorney-General of Sudan to ensure that measures adopted to protect against Covid-19 in prisons do not lead to impunity for serious human rights violations in the Habré and Al-Bashir cases.

Seeking Justice for Child Victims of Sexual Abuse by Peacekeepers

By Charlie Loudon, REDRESS' Legal Adviser

Follow Charlie on Twitter on @CharlieLoudon



© UN Photo by Logan Abassi

Almost 2,000 allegations of sexual exploitation and abuse by peacekeepers were reported between 2004 and 2016.

Many of the most disturbing cases have involved children, with peacekeepers from Sri Lanka, Uruguay, France, Pakistan and other countries implicated in crimes in Haiti, the Central African Republic, the Democratic Republic of Congo and elsewhere.

Sexual exploitation and abuse by peacekeepers have been well documented over recent years, but accountability for these crimes remains elusive. Troop-contributing countries have shown themselves largely unable or unwilling to prevent abuse, prosecute the perpetrators or provide redress to the victims. The UN's role has also been criticised, prompting extensive internal reforms.

A joint report by REDRESS and the Child Rights International Network, *Litigating Peacekeeper Child Sexual Abuse*, exam-

ines the success of litigation in pursuing justice for victims by looking at cases in which victims and their representatives have turned to the courts to seek accountability and redress.

In each of the case studies examined in the report, suspected perpetrators were not convicted or were subjected to lesser sanctions than their crimes merited. In not one of the case studies did the victims receive the full reparations to which they were entitled.

The case studies identify some key obstacles that prevent the perpetrators from being held to account, and that prevent victims from obtaining redress. The report recommends a series of reforms to policies, practices and legislation in troop-contributing countries and the UN to remove these obstacles to accountability and redress. It also identifies proposals for strategic human rights litigation to address existing failings.

Publications Round-Up

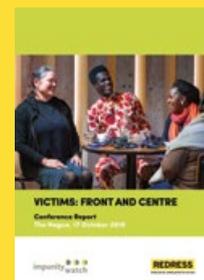
Other recent publications include:



- *The Rights of Victims of Violence in Pre-Trial and Immigration Detention: Report on The Netherlands* finds that the way in which victims' rights are implemented in the Netherlands for victim detainees is inadequate. A follow-up *Policy Guidance Note* addresses policy recommendations to authorities in the Netherlands.

- *Non-Admission of Evidence Obtained by Torture and Ill-treatment: Procedures and Practices* is a new resource prepared for the Convention against Torture Initiative. It offers guidance to States on how to effectively implement Article 15 of the UNCAT, which prohibits admission of evidence obtained by torture in any proceedings.

- *Victims: Front and Centre* summarises the discussions of a conference co-organised with Impunity Watch in The Hague, where victims, activists and policymakers discussed how to ensure the meaningful and effective participation of victims in transitional justice processes, particularly in the contexts of Guatemala and Uganda.



- *Universal Jurisdiction Annual Review 2020* salutes the rise of universal jurisdiction cases worldwide, but highlights an alarming trend: the prosecution of mass atrocities as terrorism, and not international crimes. It was researched and written by TRIAL International's Valérie Paulet, in collaboration with REDRESS, ECCHR and FIDH.
- *Litigating Torture in Kenya and Cameroon* is a report of a litigation workshop that brought together lawyers and medical professionals from Kenya, Cameroon and The Gambia. Participants look at strategies for implementing judgments and how to use a collaborative approach between medical and legal professionals to seek justice for victims of torture.

UK Supreme Court Judgment on Torture by Non-State Armed Groups

By Charlie Loudon, REDRESS' Legal Adviser

Follow Charlie on Twitter on @CharlieLoudon

In an important judgment in November 2019, the UK Supreme Court ruled that members of non-state armed groups could be prosecuted for torture where those groups exercised governmental functions.

REDRESS intervened as a third party to help clarify how international law responds to torture committed by militias and rebel groups.

The case concerned Agnes Reeves Taylor, the ex-wife of former Liberian president and convicted war criminal Charles Taylor. Agnes Taylor was arrested by the Metropolitan Police Service in 2017 in the UK and charged with torture and conspiracy to commit torture as part of the National Patriotic Front of Liberia (NPFL) in the early stages of the first Liberian civil war in 1990.

Despite the findings of the UK Supreme Court, in December 2019, the UK Central Criminal Court dismissed the case against her. The Central Criminal Court judge found that she could not be prosecuted because of a lack of evidence that the NPFL exercised governmental control at the time of the alleged crimes.



© Courtesy of the BBC

“The Supreme Court made clear that members of armed groups that exercise sufficient control, such as ISIS and the Taliban, can be prosecuted for torture under UK law. And similar alleged crimes that have occurred more recently than this case, anytime since 1991, could also be prosecuted as war crimes.”

Charlie Loudon,
REDRESS Legal Adviser

Cases Round-Up

Other recent cases litigated by REDRESS include:

- **Nick Tuffney:** In October 2019, REDRESS held the UK government to account for failing to provide effective support to a man who had been detained and ill-treated in Panama and persuaded the Foreign and Commonwealth Office to pay him compensation and to introduce changes in how they operate.
- **SL v Venezuela:** In January 2020, the Inter-American Commission on Human Rights considered admissible one of our cases against Venezuela. The case is brought by the parents of a British woman who, while being held in prison in Venezuela, died following a lack of medical care for her diabetic condition.
- **Mustafa al-Hawsawi:** In January 2020, REDRESS filed detailed comments on Lithuania's response to a complaint brought by REDRESS before the European Court of Human Rights, concerning Al-Hawsawi's detention and alleged torture at a CIA secret detention site operating in its territory during the 'War on Terror'.
- **Mariam Yahia Ibraheem:** In February 2020, REDRESS and partners submitted their arguments on behalf of Ibraheem and her family in a complaint against Sudan pending before the African Commission on Human and Peoples' Rights. She was sentenced to death for apostasy and corporal punishment of 100 lashes for adultery in 2014 because as the daughter of a Muslim man, she married a Christian man.
- **Saif al-Islam Gaddafi:** In March 2020, the Appeals Chambers of the International Criminal Court ultimately found the case against Gaddafi admissible before the Court. REDRESS and Lawyers for Justice in Libya, who jointly intervened, welcomed the decision, as it presents a renewed prospect of accountability for human rights violations in Libya.

First National Victims Network launched in Uganda

By Alejandra Vicente, REDRESS' Head of Law

Follow Alejandra on Twitter on @AVicente_Carr

In our last bulletin, we highlighted the work that REDRESS and its local partners have carried out in Uganda to strengthen the position of victims in justice and accountability processes during the last two years.

Together with Emerging Solutions Africa and the Uganda Victims' Foundation, we brought together more than 300 victims and grassroots organisations during a series of policy meetings and victims' forums. A key issue that emerged during these meetings is that victims' voices were largely absent from discussions over the design and implementation of transitional justice measures that affect them.

We are excited to report that in September 2019, the first national network of victims of the conflict, the Uganda Victims and Survivors Network (UVSN), was finally launched in Kampala, with the support from REDRESS and its local partners.

The Network, which is comprised and led by victims of the conflict, seeks to provide victims with a platform to engage directly with policymakers. It was launched during a high-level policy conference, which was attended by the

© Emerging Solutions Africa



The Speaker of Parliament in Uganda, Rebecca Kadaga, joins victims of the conflict in Uganda during the launch of a new national network of victims.

Speaker of Parliament in Uganda, Rebecca Kadaga. She pledged to support some of the key demands from victims, including the need for the passage of a transitional justice bill, which would bring them closer to receive justice and reparations.



Watch this story on YouTube:

<https://youtu.be/bYAShviPeEI>

African States Cannot Deny Enforced Disappearances Any Longer

By Eva Nudd, REDRESS' Legal Adviser

Follow Eva on Twitter on @NuddEva

Enforced disappearances date back to the colonial era in Africa, when they were used against freedom fighters to instil blind obedience among the population. In recent years, some African States have relied on enforced disappearances to silence political opposition, activists and human rights defenders.

The UN has received 4,000 complaints of enforced disappearances in Africa since the 1980s. However, the available statistics do not provide a full picture. There is almost no other public information on the recurrence of this practice on the continent, and many governments have for years denied the use of enforced disappearances.

REDRESS is working with local partners from Libya, Sudan, Zimbabwe and Algeria on a project about enforced disappear-

ances in Africa. As part of this project, we have sought to address the first hurdle towards tackling this devastating practice, which is getting governments even to acknowledge it.

Last October, at a session organised jointly by REDRESS, the African Commission on Human and Peoples' Rights discussed for the first time enforced disappearances in Africa during one of its main sessions.

This year we will be advocating for the adoption of comprehensive guidelines for African States to prevent, investigate and prosecute the crime of enforced disappearance, and to provide reparations to victims. Currently, there is no regional treaty tackling the problem of enforced disappearances in Africa.

As we approach the 10th anniversary of the UN Convention on the Protection of all Persons from Enforced Disappearance, the main international treaty on enforced disappearances, in December, we will be calling on African States to ratify the Convention. Only 16 out of 54 African countries have either signed or ratified it to date.

Only by acknowledging the prevalence of enforced disappearances, and taking steps to combat it, African States will be closer to eradicating this practice.



Make a difference – Donate today!

“REDRESS has been alongside us since the very beginning. They have always been there to help.”

Richard Ratcliffe,
husband of Nazanin Zaghari-Ratcliffe

Every day, REDRESS helps survivors of torture and their families in times of need. With your regular support, we can make a difference to the lives of a substantial number of particularly disadvantaged people, bringing benefits to the individuals and

communities concerned, both directly and indirectly. Your regular support can make a real difference to their lives. This is why when you become a regular supporter, we make sure you get to see the impact that it has.

Every contribution matters. Donate today!

To make a difference today, please consider becoming a regular supporter, with your help we can make sure that survivors of torture can get the support they need: redress.org/donate

Please consider starting your monthly donation today at redress.org/donate

Thank you, your support makes a real difference.



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