



Victims without a perpetrator

The number 5657 recognised how many tortured people there were at the time of the performance.

The Spanish government refuses to investigate cases of torture during the detention of the Basque people. We know the victims, says **Iratxe Urizar**, but those who commit it go unpunished

There is no doubt, and it must be said, that in the field of the rights of victims of torture in the context of the Basque conflict, the progress that has been made has been very notable.

Since the announcement by the ETA organisation to abandon violent activity 12 years ago, there has also been a gradual disappearance of the practice of incommunicado detention and, with it, of torture itself in the context of police operations in application of the anti-terrorist law. We can therefore confirm that torture was a practice closely linked to anti-terrorist measures and policies.

Victims of torture have suffered a lack of official recognition (and in fact, the very act of reporting having suffered torture during detention was used as an indication of guilt and suspicion of belonging to an armed gang), and treatment that was completely asymmetrical with respect to other victims. Although this asymmetry is still evident today, regulations are beginning to emerge in the right direction.

The first steps towards recognition of these victims were taken by the Basque Institute of Criminology, with a report which confirmed, supported by the practice of the Istanbul Protocol, that 4,311 people in the Basque

Autonomous Community and another 1,068 in the Autonomous Community of Navarre had been subjected to torture in the period between 1960 and 2014. It was certainly demonstrative of the dimension of this practice (we must take into account that the total population of the Basque Country is only slightly over 3,000,000 people. In addition, many did not want to participate in this report, distrustful of the institutional mistreatment they had been suffering for years, not wanting to relive such a traumatic episode, or because they had died by the time of its completion). These terrible figures caught the attention of the CAT (Committee Against Torture of United Nations) in its last examination of Spain carried out at the UN headquarters in Geneva in July 2023. Upon learning of this report, the Committee requested the Spanish government investigate these cases, but to date no steps have been taken in this regard. Indeed, the jurisprudence of the Court of Human Rights already established a systematic lack of investigative activity in cases of torture under anti-terrorist incommunicado detention and, as a result, a lack of clarification of the facts.

There are now 11 cases in which the European higher courts have condemned Spain for not investigating complaints of torture, establishing a systematic pattern. Lack of investigation in cases of torture is also reflected in the recommendations and decisions of various United Nations bodies (including Universal Periodic Reviews, reports of Special Rapporteurs after visits, as well as individual complaints endorsed by the Committee against Torture, and the Human Rights Committee).

Lack of investigation has often been accompanied by impunity for the perpetrators and the legitimisation and glorification of serious human rights violations attributable to the State. Some political and institutional leaders have been making statements that not only praise and legitimise the fact of having tortured, but also humiliate or insult its victims, causing them double victimisation.

Although the absolute inaction of the Spanish State in this matter is striking, being as it is also the main perpetrator, the Basque and Navarrese institutions have approved in recent years the Basque Law 12/2016, of July 28, on the recognition and reparation of victims of human rights violations in the context of politically motivated violence in the Autonomous Community of the Basque Country between 1978 and 1999, and the Navarrese Law 16/2019, of March 26, on the Recognition and Reparation of Victims of Politically Motivated Acts Provoked by Far-Right Groups or Public Officials. They are beginning to evaluate testimonies of tortured people and victims of other types of violence exercised by the state (disappearances, deaths, kidnappings, injuries) and the first recognitions are already being made, with 461 in total made to date.

The last 93 recognitions have just been given by the Basque Commission this past October. The typology of the recognised victims is varied: tortured; killed by the Civil Guard or the Spanish National Police; murdered or seriously injured by the GAL, the Spanish Basque Battalion or other paramilitary groups. One of those recognised has been José María Larretxea Goñi, who suffered an attempted kidnapping and serious injuries in

1983. Another case that we can draw attention to is that of Gurutze Iantzi, who died in the Civil Guard Police Station a few hours after being arrested and held incommunicado and whose official explanation was that of 'natural death'.

Gurutze Iantzi was arrested on September 21, 1993 without any court order. She was taken to the Tres Cantos headquarters of the Civil Guard in Madrid and the next day her family received the news of her death by telegram. According to the official version, she died of a heart attack, her death occurred 'naturally'. She was 31 years old.

However, the complaints of torture by the people arrested that same night with her made clear to her family and to Basque society another reason for her death. One of the people arrested that night with her declared that 'our bodies held out; hers did not. Only that'. Her husband, locked in a cell next door at the police station, said that he saw his wife's sandals and green trousers through some bars, that he heard her screams and her cough... and then, silence.

Her death could have been caused by the 'bag' (causing asphyxiation by placing a bag over the head), the electrodes or the 'bathtub' (submerging in a bucket of dirty water) that the other 20 detainees have detailed suffering. Gurutze died from the torture she suffered that night. After more than 30 years of silence, this has just been institutionally recognised.

Although there is undoubtedly progress and victims are gaining recognition, we cannot, however, claim that we know the truth. The right to the truth protects not only the victim

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but society as a whole. They are victims, but who are the perpetrators? Where are the perpetrators? Where are those ultimately responsible? Victims have no way of pursuing their perpetrators, who remain unpunished, if not rewarded or promoted.

Nor is any measure of therapeutic reparation offered, such as medical treatment for physical ailments or psychological-psychotherapeutic rehabilitation, no social aid is granted (aid for access to the labour market, housing, studies etc) and there are no provisions for compensation, which do apply to other victims of similar damages.

Not only that, although the existence of reports gathering evidence and recognising the reality of the reported mistreatment is confirmed, the criminal sentences of the victims are not reviewed, so dozens of people continue

to serve prison sentences based on evidence obtained as a result of torture. In addition, incommunicado detention, which has been shown as a necessary prerequisite for torture, is made possible through Article 509 of the Spanish Criminal Procedure Law.

The progress is there, but it is necessary to put an end to the false stories that justified and legitimised crimes of state violence, and to put an end to the official versions shielded by reports and files that to this day remain secret. These must see the light.

We must work to ensure that this recognition dynamic does not stagnate and is updated and adapted, improve the compensation system and, as the Evaluation Commission itself requested when presenting the last 93 cases of recognition, open a new period for applications for recognition, including cases of violence that occurred after 1999.

We must all work together to ensure that the last of the Rs of the basic principles of the rights of victims of state violence (recognition, reparation and the guarantee of non-repetition) are implemented as soon as possible.

Iratxe Urizar is a member of Behatokia – Basque Observatory of Human Rights. She is involved in addressing human rights violations, particularly those related to state and political violence. She has participated in international initiatives and legal complaints in international institutions and Courts, denouncing issues like torture and asymmetrical treatment of victims in the Basque conflict.



Simulation of the torture method known as 'the bag', asphyxiation caused by placing a bag on the head, in front of graffiti denouncing the use of torture in a town in Navarra.