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The Traumatized Chechnya

An account of torture and
ill-treatment during the
Russian-Chechen armed conflict

Introduction

Ever since the violence in the region was instigated, massive, flagrant and systematic human rights violations during the Russian–Chechen armed conflict have been a matter of international concern and have sparked global – often unanimous – reactions. Among numerous others, the Council of Europe, the United Nations, *Medecins Sans Frontieres* and the Human Rights Watch have all vigorously condemned Russia’s involvement in atrocities, gloomily acknowledging that “there is no end to gross human rights abuses in Chechnya, in the form of murder, enforced disappearance, torture, hostage-taking and arbitrary detention”.¹ The European Court of Human Rights (ECtHR) has been compiling an extensive record of cases in which Russia was found to have failed to effectively investigate the identified types of violations.² To date, only a handful of victims successfully brought their cases to international judicial institutions, whereas most of those who had suffered continue to constitute a largely traumatized society, left with no opportunities for justice and healing.

The present report is part of a series of publications devoted to a detailed portrayal and analysis of various human rights violations recorded during the Russian–Chechen armed conflict. Given the lack of accurate official victim accounts, these reports aim to accrue information about human rights abuses which have subsequently been systematically documented and processed by the Natalia Estemirova Documentation Center (NEDC). Established in 2010 through the cooperation of international and local human rights organizations – such as the Memorial Human Rights Center, the Committee for the Prevention of Torture and the International Protection Centre (*Centre de la Protection Internationale*) – the NEDC endeavors to operate within the fields of international human rights, humanitarian and criminal law. It should be noted that the figures reported in the publications are in no way final nor do they represent the totality of victims of the protracted conflict. Rather, they reflect a quantitative and qualitative analysis of data collected, registered and processed by the NEDC to date, based on the information available to its source donors. Whereas the total number of victims is likely to be many times greater, information presented in the NEDC publications nonetheless supports the identification of trends and patterns of violence and the recognition of multiple impacts of violence, by bringing the largest incidents into the spotlight.

¹ Parliamentary Assembly of the Council of Europe, Committee on Legal Affairs and Human Rights, *Human rights violations in the Chechen Republic*, 21 December 2005, para. 2(3), available at: http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?_FileID=11178&lang=EN (last visited on 26.04.2021)

² See, for example, *Baysayeva v. Russia*, no. 74237/01, Judgement, ECtHR, 5 April 2007, § 119; *Beksultanova v. Russia*, no. 31564/07, Judgement, ECtHR, 27 September 2011, § 83; *Turluyeva v. Russia*, no. 63638/09, Judgement, ECtHR, 20 June 2013, §§ 89–102; *Khadzhimuradov and Others v. Russia*, nos. 21194/09 and 16 others, Judgement, ECtHR, 10 October 2017, §§ 68–77 and §§ 84–93

This report calls to attention one of the most serious violations of human rights – torture. According to the former UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein: “Torture is a severe violation of human rights that can never be justified – even during wartime, or when national security is under threat”.³

In spite of this unequivocal international standpoint, cases of torture continue to occur during national disturbances and armed conflicts and are often central to the pursued politics of terror. According to the NEDC Database, the cases of torture and ill-treatment during the Russian–Chechen armed conflict were widespread and systematic, and often accompanied other serious human rights abuses such as killings, disappearances and kidnappings. In this regard, the present report endeavors to detail the context of torture as a serious human rights violation and to reflect its burden on the victims and their families.

The structure of the report is as follows: Part I conceptualizes torture under international law and presents regional case law on the matter. Part II includes a description of violence within the specific context of the Russian–Chechen armed conflict, drawing on statistical information from the NEDC Database accompanied with a contextual narrative. This part also introduces atrocious incidents of torture and presents victims’ accounts of violations. On several occasions, however, due to limited information concerning the nature of violations, it was difficult to verify whether the acts indeed amount to torture. Accordingly, Part III describes violations, which could qualify as torture or accompanying violations. Such an approach attempts to construct the most accurate and complete picture of the use of torture during the conflict in Chechnya, by encompassing all of its ‘faces’. Finally, Part IV recalls individual cases of victims seeking justice in front of various institutions and the obstacles they faced during these efforts.

As the report unfolds, it scrutinizes complex yet essential questions on the use of torture during the Russian–Chechen armed conflict. Thus, for instance, it examines the geographical distribution of victims and the timeline of relevant incidents. It studies the context under which the abuses occurred and provides insight into, among others, the status, role and belonging, gender, age and particular vulnerabilities of victims at the time of violations. It also describes the most common types of torture and looks at multifaceted circumstances of victimization. The analysis introduces some of the largest incidents of mass human rights violations during the conflict but also some isolated acts of violence, while quoting the survivors and their relatives. Various statistical graphics are included throughout the report for a better understanding of the presented materials and to visualize the scope of the violation.

More than two decades since the outbreak of violence in the North Caucasus region, “a far cry from peace”,⁴ Chechnya has now turned into a far cry from justice. With only a few justice mechanisms available and effectively functioning,

³ Statement by Zeid Ra’ad Al Hussein, UN High Commissioner for Human Rights, 26 June 2016, available at: <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=20173&LangID=E> (last visited on 26.04.2021)

⁴ Medecins Sans Frontieres, *War crimes and politics of terror in Chechnya 1994–2004*, September 2014, available at: <https://www.msf.org/sites/msf.org/files/2019-04/MSF%20Speaking%20Out%20Chechnya%201994-2004.pdf> (last visited on 26.04.2021)

victims of war crimes are likely to continue suffering from post-traumatic distress. Besides immediate and prolonged effects of the crime, the use of torture has also resulted in a collective anguish that has disturbed society at large. The NEDC condemns Russia's failure to timely and effectively investigate cases of torture committed in the course of the Russian-Chechen armed conflict and appeals to all judicial mechanisms available to investigate such cases. Although the present report only partially covers the different stories of atrocious crimes, it is one of the few efforts to reveal the truth on behalf of the victims, to contribute towards the healing of the survivors and to serve as a memorial for the deceased.

**The Natalia Estemirova
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List of Acronyms/ Abbreviations

APC	Armored Personnel Carrier
CAT	Committee Against Torture
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
HRC	Human Rights Committee
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
IHL	International Humanitarian Law
NEDC	Natalia Estemirova Documentation Center
OMON	Special-Purpose Militia Detachment
UN	United Nations
UNCAT	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
THE DATABASE	Natalia Estemirova Documentation Center's Database

**“For the time that we were kept...,
we were subjected to a humiliation
that is beyond words”⁵**

A woman arrested in Grozny, June 2004

⁵ NEDC Document № 6299





01

Torture in International Law

PART I.

Torture in International Law

The right to freedom from torture is enshrined in various international treaties and regional conventions, and represents a customary norm in international law. Article 5 of the Universal Declaration of Human Rights (1948) establishes the following:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.⁶

The prohibition of torture is absolute and allows no exceptions. It is encompassed in the 1949 Geneva Conventions and their 1977 Additional Protocols; 1950 European Convention on Human Rights (ECHR); 1966 International Covenant on Civil and Political Rights (ICCPR); 1985 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the UNCAT); 1998 Rome Statute of the International Criminal Court; and other international and regional treaties. The ECtHR has reconfirmed the absolute nature of the prohibition of torture and of inhuman or degrading treatment, although not without the initial ambiguities in its interpretation. In *Aksoy v Turkey*, the Court clarified:

Article 3, as the Court has observed on many occasions, enshrines one of the fundamental values of democratic society. Even in the most difficult of circumstances, such as the fight against organized terrorism and crime, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment.⁷

The ICCPR goes even further by not only protecting persons from torture and other cruel, inhuman or degrading treatment in Article 7, but also imposing within Article 10 a positive obligation on States to treat detainees “with humanity and with respect for the inherent dignity of the human person”.⁸ While the Covenant is silent on the details of the definition and the specific nature of treatment in question, the Human Rights Committee (HRC) – in the context of implementation monitoring – considered the following circumstances to be relevant in assessing what constitutes a breach of Article 7: “the duration and manner of the treatment, its physical or mental effects as well as the sex, age and state of health of the victim”.⁹

International Humanitarian Law (IHL) also imposes an absolute prohibition on all forms of torture or cruel, inhuman, or degrading treatment. This means that no exception could be made from the prohibition of torture, even during a state of war.

⁶ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <https://www.un.org/en/universal-declaration-human-rights> (last visited on 26.04.2021)

⁷ *Aksoy v. Turkey*, no. 21987/93, Judgement, ECtHR, 18 December 1996, § 62

⁸ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, available at: <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> (last visited on 26.04.2021)

⁹ *Vuolanne v Finland*, HRC Communication No. 265/1987, 7 April 1989, § 9.2

One of the most comprehensive and detailed international treaties on the right to freedom from torture – the UNCAT – was adopted in 1984 and entered into force in 1987.¹⁰ It provides, *inter alia*, the definition of torture, establishes States' obligations and the requirement to investigate allegations of such treatment.

Russia assumed the Soviet Union's duty to comply with the UNCAT given the ratification of the Convention by the latter. However, as the Committee Against Torture (responsible for overseeing the implementation of the UNCAT) is only a quasi-judicial body, it is also critical to consider legally enforceable regional systems for the protection of human rights, to which the Russian Federation is a party. Accordingly, the upcoming sections discuss the evolution of the right to freedom from torture at the international level (the UNCAT), but also elaborate on the specific regional jurisprudence of the ECtHR.

I. THE UNCAT

In 1984, Article 1 of the UNCAT introduced what would later become an internationally-accepted legal definition of torture. It reads:

[...] Torture means 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 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.¹¹

The following elements can be identified from the given definition: (a) intent to inflict severe pain or suffering (physical or mental); (b) a specific purpose(s); (c) (in)direct involvement of a public official; and (d) the nature of the act or omission that resulted in severe pain or suffering. It is important to note that, while referring to other types of inhuman treatment that might not amount to torture, the UNCAT does not specify the difference between the two. As acknowledged by the Committee Against Torture, “in practice, the definitional threshold between cruel, inhuman or degrading treatment or punishment and torture is often not clear”.¹² In fact, as can be seen in Part III of the present publication, the qualification of individual acts of violence as torture or inhuman treatment proved to be particularly difficult within the context of a protracted armed conflict in Chechnya, especially when considering the subjective element of the severity of suffering.

Article 2 (2) of the UNCAT stipulates that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture”.¹³ As such, the UNCAT provides for no exemptions to the application of the right to freedom from torture

¹⁰ UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, available at: https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf (last visited on 28.06.2021)

¹¹ UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol. 1465, article 1, available at: https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf (last visited on 26.04.2021)

¹² UN Committee Against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, 24 January 2008, CAT/C/GC/2, §3, available at: <https://www.refworld.org/docid/47ac78ce2.html> (last visited on 26.04.2021)

¹³ UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol. 1465, Article 2(2), available at: https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf (last visited on 26.04.2021)

regardless of the existence of an armed conflict or its intensity; it shall not be limited or revoked neither during the times of peace nor in the case of conflict. While some human rights, such as the freedom of movement, can face different restrictions during armed conflicts, torture holds a special position in international law as a non-derogable norm.

Furthermore, the UNCAT obliges States to enact legislation criminalizing torture (Article 4) and to investigate cases of torture or cruel, inhuman or degrading treatment (Article 12). Complemented by Article 13, the investigation – as later emphasized by the Committee Against Torture – must be carried out in a prompt, impartial and effective manner and “seek both to determine the nature and circumstances of the alleged acts and to establish the identity of any person who might have been involved therein.”¹⁴

Despite the fact that States cannot be held responsible for acts committed by private individuals when inflicting torture, the UNCAT considers that failure of governments to prevent and investigate such treatment can be qualified as “acquiescence”.¹⁵ In *Dzemajl and Others v. Yugoslavia*, for example, the Committee Against Torture established a breach of Article 16, after local police failed to provide the necessary protection to residents of a local settlement who were being abused by the ethnic majority during the *pogrom*.¹⁶

In an effort to develop a set of standards aimed at preventing torture and inhuman treatment, the UNCAT, among others, also provides guidelines for State personnel;

conditions of detention and solitary confinement; appropriate redress and compensations for victims; as well as on issues of extradition and expulsion.¹⁷

While monitoring the implementation of the UNCAT, the Committee Against Torture regularly provides its concerns and recommendations to States in the form of “concluding observations”.¹⁸

In the framework of the outlined system, there has been an extensive history of allegations of torture and other forms of ill-treatment against the Russian Federation, including within the context of the Russian–Chechen armed conflict.

The upcoming section examines jurisprudence of the ECtHR with regards to torture and inhuman or degrading treatment, and elaborates on the definition and scope of the application of the prohibition of torture.

II. THE ECtHR

According to the Association for Prevention of Torture and the Center for Justice and International Law, the European regional human rights protection system, in general, “has arguably developed the most detailed jurisprudence on the prohibition of torture and other ill-treatment”.¹⁹ As one of the first judicial mechanisms, the ECHR was opened for signature in Rome on 4 November 1950 and came into force in 1953.²⁰ The ECHR addresses torture and inhuman or degrading treatment in Article 3, which reads: “No one

¹⁴ *Blanco Abad v. Spain*, UN Committee Against Torture (CAT) Communication No. 59/1996, 14 May 1998, § 8.8

¹⁵ *Dzemajl and Others v. Yugoslavia*, UN Committee Against Torture (CAT) Communication No. 161/2000, 21 November 2002, § 9.2

¹⁶ *Ibid*

¹⁷ UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol. 1465, see Articles 3, 10, 14, 20, available at: https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf (last visited on 26.04.2021)

¹⁸ UN Committee Against Torture (CAT), The Office of the High Commissioner for Human Rights, available at: <https://www.ohchr.org/EN/HRBodies/CAT/Pages/CATIntro.aspx> (last visited on 26.04.2021)

¹⁹ The Association for the Prevention of Torture (APT), the Center for Justice and International Law (CEJIL), *Torture in International Law, a guide to jurisprudence* (2008), p. 54, available at: <https://www.apr.ch/sites/default/files/publications/jurisprudenceguide.pdf> (last visited on 26.04.2021)

²⁰ Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5, available at: <https://www.echr.coe.int/pages/home.aspx?p=basictexts> (last visited on 26.04.2021)

shall be subjected to torture or to inhuman or degrading treatment or punishment”.²¹

In its long-standing jurisprudence, the ECtHR on several occasions re-examined the threshold for the qualification and the distinction between the three types of treatment, while emphasizing the purposive element behind them and the level of severity of the treatment. In one of its interpretations, the Court established that:

*In addition to the severity of the treatment, there is a purposive element, as recognized in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which came into force on 26 June 1987, which defines torture in terms of the intentional infliction of severe pain or suffering with the aim, inter alia, of obtaining information, inflicting punishment or intimidating.*²²

In subsequent judgements, however – for instance, in *Kalashnikov v. Russia and Mayzit v. Russia* – the Court considered a multiplicity of other factors in assessing possible breaches of Article 3 in the case of a lack of intent by State officials to inflict pain or suffering upon a person. The Court interpreted that “the absence of any such purpose cannot conclusively rule out the finding of a violation”.²³ Accordingly, and considering the complex nature of the violation and its circumstances, a customized approach towards assessing each case of torture was adopted out of necessity.

The Court has also highlighted the significance of the context and circumstances

surrounding the treatment, calling for a case-by-case approach based on the facts of a particular situation. While degrading treatment implies “a minimum level of severity”,²⁴ torture represents “serious and cruel suffering” with “a special stigma” attached to it.²⁵ However, any act can be re-qualified depending on “all the circumstances of the case such as the duration of the treatment, its physical and mental effects and in some circumstances the sex, age and state of health of the victim, etc.”.²⁶ For instance, while referring to circumstances of the violation, in *Aydin v. Turkey* the Court established that rape of a detainee can constitute an act of torture.²⁷

The Court also defined a positive duty on States to protect individuals against the acts of torture, inhuman or degrading treatment, even when committed by private persons. In such situations, States are obliged to effectively investigate cases of ill-treatment, i.e. carry out prompt and independent investigations with due diligence, while ensuring that victims have the required access to the procedures.²⁸ Similar to the UNCAT, the ECHR also encompasses special provisions on training of State personnel;²⁹ on conditions of detention;³⁰ on redress and compensations;³¹ on extradition and expulsion;³² and on other issues relevant to the elimination of all forms of ill-treatment.

²¹ *Ibid*, Article 3

²² *İlhan v. Turkey*, no. 22277/93, Judgement, ECtHR, 27 June 2000, § 85

²³ *Kalashnikov v. Russia*, no. 47095/99, Judgement, ECtHR, 15 July 2002, § 95; *Mayzit v. Russia*, no. 63378/00, Judgement, ECtHR, 20 January 2005, § 36

²⁴ *Campbell and Cosans v. UK*, no. 7511/76 and 7743/76, Judgement, ECtHR, 25 February 1982, § 28

²⁵ *Ireland v. UK*, no. 5310/71, Judgement, ECtHR, 18 January 1978, § 167

²⁶ *Ibid*, § 162

²⁷ *Aydin v. Turkey*, no. 23178/94, Judgement, ECtHR, 25 September 1997, §§ 83–86

²⁸ *İlhan v. Turkey*, no. 22277/93, Judgement, ECtHR, 27 June 2000, §§ 92–93; *Aksoy v. Turkey*, no. 21987/93, Judgement, ECtHR, 18 December 1996, § 98

²⁹ *Andronicou and Constantinou v. Cyprus*, no. 86/1996/705/897, Judgement, ECtHR, 9 October 1997, §185

³⁰ *Gelfmann v. France*, no. 25875/03, Judgement, ECtHR, 14 December 2004, §50

³¹ *Assanidze v. Georgia*, no. 71503/01, Judgement, ECtHR, 8 April 2004, §198

³² *Soering v. UK*, no. 14038/88, Judgement, ECtHR, 7 July 1989, §92

III. RUSSIA'S COMPLIANCE WITH ITS INTERNATIONAL OBLIGATIONS

The Russian Federation has long been a party to various international human rights treaties that concern the prohibition of the use of torture. As a successor to the Soviet Union, it has a continued duty to comply with the UNCAT since its entry into force in 1987.³³ Moreover, the Russian Federation ratified the ECHR in 1998.³⁴ In addition to the absolute prohibition of torture set out in Article 21(2) of the Constitution of the Russian Federation, torture is also included as a special crime in its Criminal Code: Article 7(2) and Article 117 prohibit the use of torture, or other cruel or degrading treatment or punishment, and establish criminal liability for their infliction. The Note to Article 117 also outlines the definition of torture as:

*the infliction of physical or mental suffering for the purpose of compelling to give evidence or to commit other actions against a person's will, as well as for the purpose of punishing, or for other purposes*³⁵

thus incorporating the minimum definition of torture, as stipulated under the UNCAT.

Despite reflecting this minimum standard, both international and local human rights activists have highlighted the inadequacy of the Criminal Code when addressing acts of torture committed by State officials. While Article 117 is predominantly applied to acts committed by private individuals, similar

acts committed by the police, military and other governmental bodies are often only categorized as breaches of Article 286 ("Improper exercise of authority") of the Criminal Code of the Russian Federation. Such practice, first of all, diminishes the severity of punishment for responsible State officials when compared to that specified for torture, and, secondly, skews statistics on committed acts of torture which are instead counted amongst other violations of Article 286. In 2018, when examining Russia's country report, the Committee Against Torture expressed concern:

*that the Russian definition of torture was not in full compliance with the Convention, adding that there was reliable information that torture was practiced widely in the country, and indicating the need for a robust criminalization of torture.*³⁶

The annual report of the ECtHR from 2017³⁷ similarly highlighted that "Russia was implicated in over half of cases involving torture, inhuman treatment or ineffective investigation of such crimes",³⁸ based on judgements issued by the Court in that year. In the following year, the Court further received more than 100 new applications related to ineffective investigations of torture by the Russian judicial system.

Local human rights activists in Russia have also been raising the alarm about the country's widespread and unpunished use of torture, particularly in its detention facilities. In 2012, the Russian NGO Shadow Report on the Observance of the Convention against Torture brought to attention

³³ UN Committee Against Torture, The Office of the High Commissioner for Human Rights, available at: <https://www.ohchr.org/EN/HRBodies/CAT/Pages/CATIntro.aspx> (last visited on 27.04.2021)

³⁴ Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, available at: <https://www.echr.coe.int/pages/home.aspx?p=basictexts> (last visited on 28.04.2021)

³⁵ Criminal Code of The Russian Federation of June 13, 1996 No. 63-FZ (as amended on 18.02.2020), available at: <https://cis-legislation.com/document.fwx?rgn=1747> (last visited on 28.04.2020)

³⁶ Committee against Torture examines Russian Federation's report, The Office of the High Commissioner for Human Rights (UN Human Rights), 26 July 2018, available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23412&LangID=E> (last visited on 28.04.2021)

³⁷ The European Court of Human Rights, Annual Report 2017, available at: https://www.echr.coe.int/Documents/Annual_report_2017_ENG.pdf (last visited on 28.04.2021)

³⁸ Marokhovskaya A., I. Dolina, *The Low Price of Torture in Russia*, Organized Crime and Corruption Reporting Project, 9 October 2018, available at: <https://www.occrp.org/en/investigations/8715-the-low-price-of-torture-in-russia> (last visited on 04.05.2021)

various legislative and practical issues in the implementation of the rights enshrined in the UNCAT, including the fact that “the vast majority of allegations in cases of torture do not lead to criminal cases or to the implementation of a wide range of measures in investigating cases of torture”.³⁹ Importantly, the report includes a special section on the use of torture and other cases of ill-treatment in Chechnya, as separate from other republics, boldly stating that “the Chechen authorities have granted the uniformed forces total impunity”.⁴⁰ In this regard, and despite Russia’s assertions that it is striving to implement and observe its obligations under international law, the country’s legislative framework and subsequent practice reveal significant gaps and failures to address the crime of torture across the State and specifically in war-torn Chechnya.

As this publication continues to examine the specific nature of the use of torture and inhuman or degrading treatment in the context of the Russian–Chechen armed conflict, it intends to familiarize the reader with the ECtHR case law relevant to the particular incidents that took place during the course of the conflict. Undeniably, the comprehensive framework of international law and the established regional jurisprudence provide guidance as to how to address the cases of ill-treatment, prevent their occurrence in the future and protect the victims of physical and mental violence. Unsurprisingly, however, the will of States becomes the other essential prerequisite to the endurance of international norms and values. As the statistics of this report reflect, *pacta sunt servanda* sometimes falls into the oblivion.

NEDC Incident № 598,
NEDC Document № 22640



IV. THE ECtHR ON THE VIOLATION OF ARTICLE 3 OF THE CONVENTION IN CHECHNYA

The scale of the Russian–Chechen armed conflict and its severe impact on the civilian population has been well demonstrated in the ECtHR’s extensive case law. The Court

rendered a number of judgements on the violation of Article 3 during the conflict, in relation to both the prohibition of torture as well as the absence of an effective investigation.

One of the first cases in which Russia was found responsible for a grave violation of Article 3 is the case of *Chitayev and Chitayev v. Russia*. Specifically, the ECtHR unanimously

³⁹ Russian NGO Shadow Report on the Observance of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment by the Russian Federation for the period from 2006 to 2012, p. 9, available at: http://en.publicverdict.org/articles_images/7399_20421_docpten.pdf (last visited on 04.05.2021)

⁴⁰ *Ibid.*, p. 94–95

found Russia to be liable for breaching Article 3, Article 5 (right to liberty and security) and Article 13 (right to an effective remedy) of the European Convention.

The case was brought before the Court by two brothers, alleging to have been arrested soon after the outbreak of hostilities in Chechnya and taken to a detention centre in Achkhoy-Martan where they were kept in unheated and damp cells with no toilets. While detained, they were interrogated about the activities of the Chechen rebel fighters, including kidnappings for ransom, but denied their involvement.

Subsequently, the applicants alleged that:

they were given electric shocks, forced to stand for a long time in a stretched position, with their feet and hands spread wide apart; that they had their arms twisted; that they were beaten with rubber truncheons and plastic bottles filled with water; that they were strangled with adhesive tape, with a cellophane bag and a gas mask; that dogs were set on them and that parts of their skin were torn away with pliers.

One of the brothers stated that “*he was beaten on his genitals and threatened with shooting. After several days, they were transported to the Chernokozovo Detention Centre where they were again tortured⁴¹ to force them to make false confessions*”. The prosecutor’s office refused to open criminal proceedings in connection to the applicants’ allegations of ill-treatment during the detention.⁴²

The ECtHR found that the treatment, which amounted to torture, was therefore in violation of Article 3, whereby Russian authorities also failed to carry out a thorough and effective investigation.⁴³

In the same year, similar rulings were issued in the cases of *Baysayeva v. Russia*, *Musayev and others v. Russia* and *Khamila Isayeva v. Russia*.

More recently, on 22 September 2020, the ECtHR recognized violation of Article 3 of the Convention under its substantive and procedural limbs in the case of *X. and Y. v. Russia*. The ECtHR found the allegations of the applicant’s ill-treatment credible based on the presumption of facts. It was not in dispute between the parties that prior to the arrest the first applicant had no injuries to his body, but required medical aid several days later. In addition, two experts found bruises, abrasions and scars on his body. About five years later, medical specialists from the Centre for Torture Survivors noted a number of scars, bodily marks and symptoms which were consistent with the detailed description of police ill-treatment which the applicant had submitted. These considerations were seen as sufficient to give rise to a presumption in favour of the first applicant’s account of events and to satisfy the ECtHR that his allegations of police violence were credible.⁴⁴

The ECtHR was dissatisfied with the perfunctory manner in which the pre-investigation inquiry was conducted. Failure to question key witnesses and failure to examine the alleged crime scene were cited as grounds for determining the violation of the procedural limb of Article 3.

Article 3 was also discussed by the ECtHR in respect of victims’ relatives and in conjunction with other serious violations, such as enforced disappearances. A number of international institutions have established that enforced disappearances were widespread during the armed conflict

⁴¹ In particular applicants described that they were beaten, threatened, strangled and subjected to electric shocks and their fingers and toes squashed with mallets or a door of a safe and their hands and feet tied behind their backs (“swallow” position)

⁴² Press release issued by the Registrar, 44, 18.01.2007, Judgment in the case of *Chitayev and Chitayev v. Russia* (application no. 59334/00)

⁴³ *Chitayev and Chitayev v. Russia*, no. 59334/00, Judgment, ECtHR, 18.04.2007

⁴⁴ *X and Y v. Russia*, no. 43411/06, Judgment, ECtHR, 22.09.2020

in Chechnya. In its previous report on the “Status of investigation and prosecution of emblematic cases of killings, abductions, disappearances and torture”, the NEDC described the nature of such violations, the reluctance of State authorities to investigate them and their impact on the civilian population.

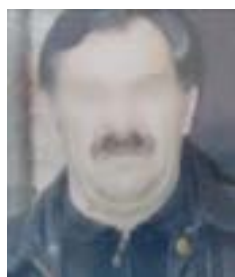
The devastating outcome of the gravest violations has affected the lives of many in the Chechen Republic. Persisting violence and the State’s failure to carry out thorough investigations have left the families of abducted victims alone in search of answers, thus exposing them to perpetual mental suffering. After more than a decade since these incidents, many in the region are still struggling to determine the fate and the whereabouts of their children, parents, spouses and siblings.

The trauma that relatives have had to endure in search of justice has been acknowledged by the Court on numerous occasions. The example of mental suffering amounting to a violation of Article 3 has been illustrated in the very recent judgements of *Murdalovy v. Russia*,⁴⁵ *Vatsayeva and others v. Russia*,⁴⁶ *Timerbulatova and others v. Russia*,⁴⁷ *Saidova and others v. Russia*,⁴⁸ and *Izhayeva and Others v. Russia*.⁴⁹

In *Timerbulatova and others v. Russia*, the Court stipulated that an act of enforced disappearance gives rise to a violation of Article 3 of the Convention with respect to close relatives of the victim, and noted that “the essence of such a violation does not lie mainly in the fact of the “disappearance” of the family member, but rather concerns the authorities’ reactions and attitudes to the situation when it is brought to their attention”.

The Court recognized applicants (relatives of the abducted persons) as victims of a violation of Article 3 due to the “distress and anguish that they suffered, and continue to suffer, as a result of their inability to ascertain the fate of their missing family members and of the manner in which their complaints have been dealt with”.⁵⁰

Photo: Memorial Human
Rights Center - NEDC
Documents № 26502, 26480



⁴⁵ *Murdalovy v. Russia*, no. 51933/08, Judgement, ECtHR, 31.07.2020

⁴⁶ *Vatsayeva and others v. Russia*, no. 44658/12, Judgement, ECtHR, 21.01.2020

⁴⁷ *Timerbulatova and others v. Russia*, no. 44116/10 and 4 others, Judgement, ECtHR, 21.01.2020

⁴⁸ *Saidova and others v. Russia*, no. 36963/09 and 4 others, Judgement, ECtHR, 21.01.2020

⁴⁹ *Izhayeva and others v. Russia*, no. 53074/12 and 4 others, Judgement, ECtHR, 14.01.2020

⁵⁰ *Timerbulatova and others v. Russia*, no. 44116/10 and 4 others, Judgement, ECtHR, 21.01.2020, § 234





02

Cases of Torture in Chechnya

PART II.

Cases of Torture in Chechnya

I. GEOGRAPHICAL AND CHRONOLOGICAL FRAMEWORKS

The main objective of Part II of this report is to highlight and clarify the approach taken by the NEDC towards systematizing and verifying documents, as well as identify the methods used for the analysis and registration of violations.

At the time of writing, the NEDC Database includes information from 36,428 registered documents. It is noteworthy that, in total, the organization has received more than one million documents and has already digitalized and analyzed a portion of these materials.

The NEDC is focusing on the documentation and analysis of the most severe human rights violations, such as the attacks on the civilian population, extrajudicial executions, mass killings, torture, enforced disappearances and other atrocities that occurred during the armed conflict.

Not all processed materials, however, refer directly to the Russian–Chechen armed conflict. As the violence spread and affected other parts of the North Caucasus region, the Database includes incidents that took place, for instance, in Ingushetia, North Ossetia–Alania or the Republic of Dagestan, as well as in other regions of the Russian Federation. Moreover, sporadic cases of violence are

confirmed to have occurred beyond the territory of Russia, often in pursuit of intimidation, harassment and persecution of human rights activists or refugees from Chechnya. Accordingly, in order to systemize the general statistics presented within this report, the geographic scope is defined as incidents that took place specifically in the territory of the Chechen Republic.

Records of the Russian–Chechen armed conflict reveal a complex and broken timeline, with various phases and stages. In the “*International Tribunal for Chechnya*” – when describing the secession of the Chechen Republic from Russia – the authors outlined the following chronological periods of the process:

These are the period of the actual independence of Chechnya from 1991–1994, the hostilities of 1994–1996, the so-called “interwar period”, and, finally, the hostilities that began in 1999 and continue with varying degrees of intensity to this day.⁵¹

It is noted that materials collected during the second armed conflict were prioritized by the NEDC for registration and analysis. Most of the documents related to the 1994–1996 conflict and the interwar period were registered in the Database due to their connection with the events that took place after September–October 1999. Therefore, most of the incidents described in this report fall under the so-called “second phase” of the

⁵¹ S. M. Dmitrievsky, B. I. Gvareli, O. A. Chelysheva, *International Tribunal for Chechnya*, 2009, Volume I, p. 19

conflict, with only a limited number taking place before 1999.

Thus, for statistical purposes, this report focuses on a ten-year timeframe starting from the beginning of the second Russian–Chechen armed conflict and until 2009. This also marks the decline of the systematic and large-scale monitoring of violations, particularly following the murder of Natalia Estemirova, a human rights activist and journalist, who later became an eponym for the current project.

That being said, the chronological timeframe used in this report does not indicate a precise beginning or end of the second armed conflict in Chechnya. This is due to the documentation of hostilities between Russian and Chechen forces, including bombing and shelling of settlements, which took place prior to the official start of the second conflict and continued, with the use of the same heavy weapons, after 2009 as well.

During the ten-year timeframe this report focuses on, both international and local NGOs have been active in the region, documenting the human rights violations of local residents and thus providing the foundation for the creation of the NEDC.

The use of torture during the conflict has been extensively discussed by many Russian and international human rights organizations and was even admitted by the highest official authorities in the Republic. For example, on 30 March 2006 at a press conference in Moscow, Chechen President Alu Alkhanov announced, whilst attempting to downplay the scale of acts of torture committed: “Torture during interrogation is used throughout the world. However, in Chechnya, the level of such crimes is two to three percent higher”.⁵²

Such statements emphasize the complexity of the armed conflict, as well as its geographical and chronological peculiarities; thus, when reading the statistics presented in this report, one must recognize that the scope of the *actual* hostilities goes far beyond the available numbers.

II. GENERAL STATISTICS

In order to establish the accuracy of data on the most flagrant violations of human rights, the NEDC has initiated the verification process through the development of the *catalogue* – allowing for data on victims to be arranged and verified systematically and chronologically, based on available information in the NEDC Database. The verification process includes the cross-checking of data, thus enabling the project team to review the information collected from various source donors of the NEDC. The data covers personal information (such as full name, date of birth, passport details if known, family situation, professional activity etc.) and details on the alleged violations, such as the type of violation, location, date and time of the infringement and any other relevant data on the victims of the conflict in the Chechen Republic and the North Caucasus.

The verification process comprises of different stages and begins by comparing database profiles collected from various information donors. This allows the NEDC team to determine similarities and discrepancies between data received from various information sources on the same victims and on the factual circumstances of the violations. The information donors have provided the most accurate and reliable data in their possession which make up a large portion of the documents received by the NEDC.

⁵² Chechen President Recognizes the Use of Torture in the Republic, *Nezavisimaya Gazeta*, 01.03.2006

Once the different profiles were compared, a unique profile of a verified victim was registered in *Catalogues* and reflected the cumulative information available pertaining to the victim's human rights violations obtained through sources such as interviews, reports and/or official press releases. The documents also contain photographs of the victims during their lifetime as well as photographs with graphic content relating to the human rights violations. These materials, produced during national investigative proceedings; criminal cases initiated by local authorities and factual information collected from judgments of the ECtHR, serve as reliable sources for the verification process. A significant part of the data obtained from NGOs was in the form of publications, articles, statements available on the internet, video and audio materials and other documents describing the circumstances of the human rights violations. In cases of deliberate killings of civilians during military and special sweeping operations conducted in Chechnya, a thorough analysis of all available information on the human rights violations is essential to accurately identify the victims of the conflict.

Once information on a person's legal status in accordance with international humanitarian

law (IHL status); their role in a conflict; the territory and date of the violation together with other details of the violation is established, the unique and verified victim's profile is considered to be complete.

The Database contains information on at least 2,042 victims of torture in the context of the Russian–Chechen armed conflict.⁵³ The mentioned victims have been cross-checked and verified through the NEDC Catalogue which is based on the most accurate data available to the project team.

Chart 1 below displays the chronological distribution of victims of torture per year.⁵⁴ As can be seen, the majority of the cases documented by human rights organizations took place between 2000–2006, peaking in 2001 with 566 victims. The occurrence of incidents remained relatively high until 2007 where they dropped to below 100.

This decline can be explained by: (1) the reduction of the intensity of the violence in subsequent years; and (2) the strategy of “Chechenization” which may have contributed to the fact that fewer victims and witnesses requested the support of civil society organizations.

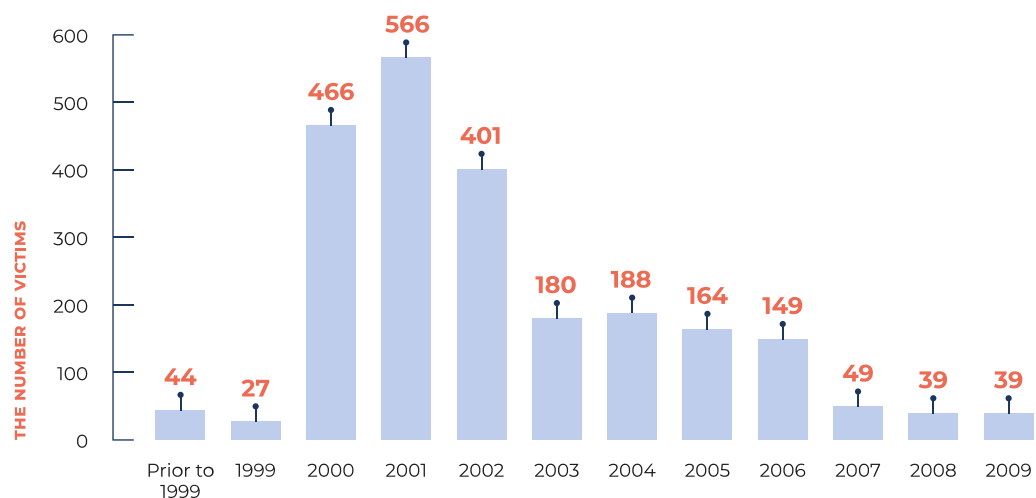


Chart 1.
Chronological distribution
of victims of torture
per year

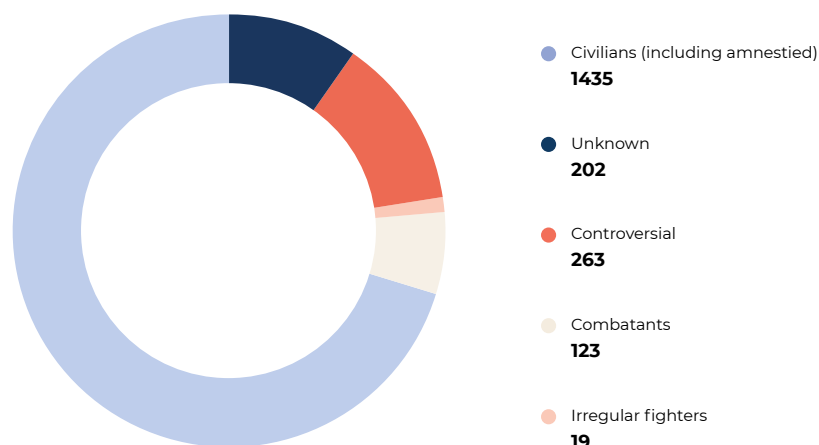
⁵³ The presented statistics were updated in June, 2021. The data is subject to change in the view of the ongoing work by the Natalia Estemirova Documentation Center on the search and identification of victims of the armed conflict.

⁵⁴ There is a degree of uncertainty in the graph, as in some cases the exact date of the incident was unknown.

The majority of the registered victims of torture in Chechnya – 1,978 – were men, and at least 64 were women. Chart 2 reveals the brutal reality of the status of tortured victims in Chechnya: at least 1,435 belonged to the civilian population, including those who were

amnestied, and others were combatants (123) and irregular fighters (19), the treatment of whom was exacerbated due to their status. For the remainder, their status was either impossible to determine due to insufficient data (202) or controversial (263).

Chart 2.
The status of victims of
torture under international
humanitarian law



The statistics of the Database show that in the majority of civilian victim cases (at least 1,402), torture was committed by the security forces of the Russian Federation or forces acting in their interests. In eight cases, information was provided relating to the involvement of irregular fighters and combatants as the perpetrators of violence against the civilian population and in 25 cases it was impossible to identify. The non-civilian victims comprised of representatives from local security forces of the Chechen Republic (55), security forces seconded from other regions of Russia (six), and at least 90 persons who belonged to members of the armed forces opposing the Russian Federation. In conformity with the status of victims described above, in some of the cases it was impossible to identify the role and belonging of those who suffered: it was either completely unknown (202) or questionable (254).

Chart 3 displays the distribution of the age of the victims in the documented cases. The vast majority of victims, 1,394 (or 68%), were adults. However, 83 minors (under the age of

18) and 28 seniors (over the age of 60) were also among those tortured. With regards to 537 cases, the age of the victims remains unknown due to a lack of information.

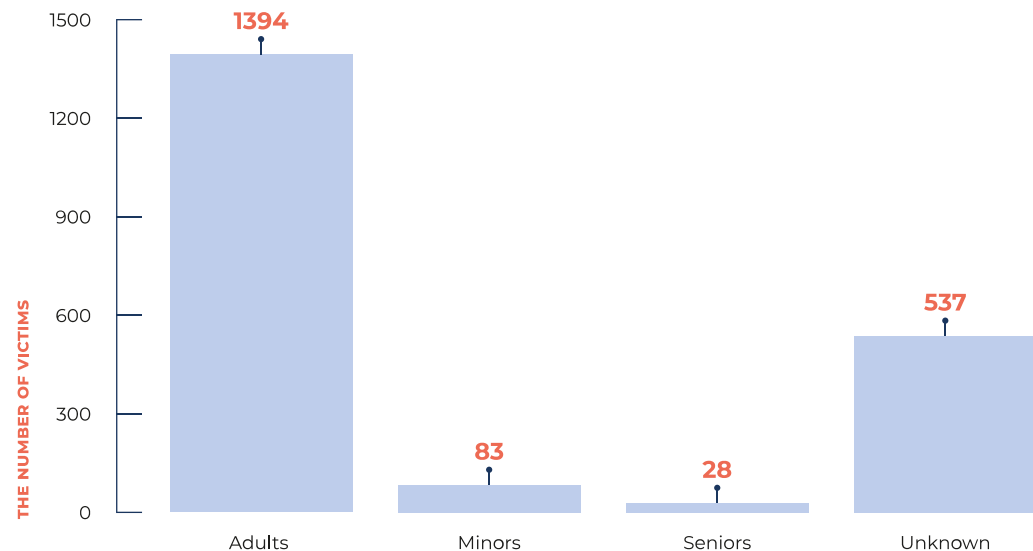


Chart 3.
Distribution of victims of torture by age

The age of the victims, specifically those who were considered minors or seniors at the time, is indicative of the general vulnerability of the targets before their abusers. Unable to protect themselves, such victims were often placed in particularly endangering situations, thus exposing them to further harm and attack. The following section reports on the vulnerabilities of the victims at the time of the violations, such as their age, and features concrete incidents during the armed conflicts in which these particular risks manifested themselves.

III. VULNERABILITY OF VICTIMS OF TORTURE

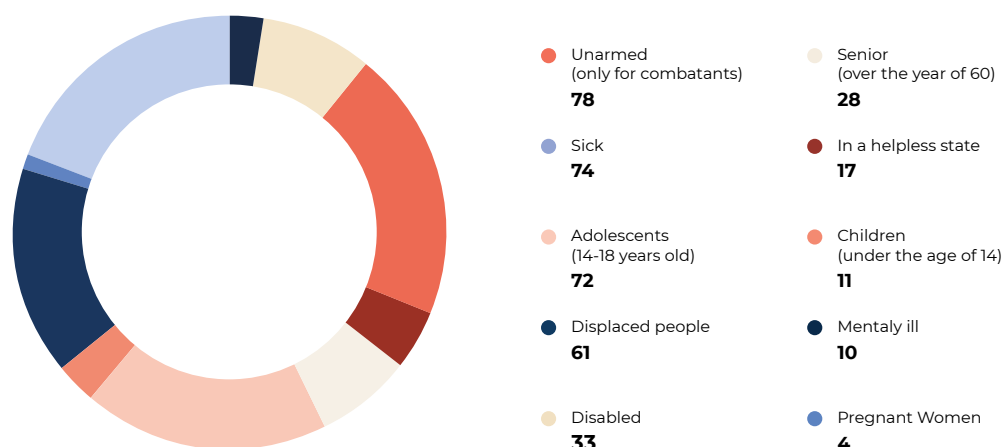
As the Database illustrates, the overwhelming majority of the victims of torture (1,805) were specifically vulnerable during their assaults. The majority (1,745) were restricted

of their freedom at the time of the violation and were thus unable to defend themselves from the perpetrators. Chart 4 illustrates the distribution of particular vulnerabilities of the victims across all the registered cases: as can be seen, many victims belonged to various health and age groups or were internally displaced (61). Among the records were those who were sick (74); had various disabilities (33); had mental illnesses (10); were pregnant (4) or in a helpless state (17) at the time of the violation. In addition to the general disaggregation of victims by age presented in the previous section, Chart 4⁵⁵ further breaks minors down into two separate categories: children under the age of 14 (11) and adolescents between the ages of 14 to 18 (72).

This categorization was created to stress the particular vulnerability of the younger victims and to demonstrate that no one, regardless of their age and defenselessness, was safe from falling victim to torture during the Russian-Chechen armed conflict.

⁵⁵ Victims could have been classified under several categories of vulnerabilities simultaneously.

Chart 4.
Particular vulnerability of
victims of torture at the time
of the violation



The below is a personal account from a 17-year-old minor who was alleged to have been involved in an explosion which took the lives of three Russian security servicemen. Delivered to the commandant's office of the Zavodskoy District in Grozny, the teenager endured ruthless torture which he goes on to describe:

Then they began to beat me. They hit on kidneys, temples, between the legs. They attached wires to the handcuffs and started torturing me with electric shocks. The sensations were very heavy. For the two days that I was in the commandant's office, they used electric shocks three times. I could not admit to what I did not do. Then they began to threaten me with a "machine". Back then I did not know what it was. I was told only later by those who experienced it: they put an iron hoop on your head and tighten the bolts.⁵⁶

While eventually released in exchange for a bribe, the boy confirmed that he had developed health issues as a result of the treatment.

In another case, the torture and murder of a pregnant woman was recorded during a high-profile incident in the village of Dai in the Shatoysky District.

On 11 January 2001, during a special operation by the Russian military, a UAZ car carrying six passengers was shelled by military personnel. Three passengers were directly killed as a result of the shelling, while the remaining three – including a pregnant woman – were captured and interrogated near the scene of the incident. During the interrogation, according to the testimony of eyewitnesses, the military personnel tortured the three captured civilians using a nutcracker and hammer and subsequently slit the throat of two of the victims. The bodies were then placed in the UAZ vehicle and set alight.⁵⁷

The mental or physical disability of victims could not prevent abuses against them. In one such case, a mentally ill man was abducted during the night of 10 November 2005 by unidentified security servicemen in the village of Goity in the Urus-Martanovsky District. According to eyewitnesses, a man was later found on the outskirts of the village, unconscious and severely beaten. Local citizens confirmed that the victim had several plastic bags placed around his head, and his toes had been tied with metal wire.⁵⁸

⁵⁶ NEDC Document № 13933

⁵⁷ NEDC Incident № 430. It must be mentioned that this incident generated a lot of publicity and is itself unique, given that the case against the military was taken to court. As a result, in 2007 a major from the GRU special forces was convicted of murder and sentenced to nine years' imprisonment to be served in a high-security penal colony. Three other members of the special forces were convicted in absentia.

⁵⁸ NEDC Incident № 6046

These are only a few examples of torture of people in Chechnya who were knowingly in vulnerable conditions. The context of the violations described in the next section may similarly have contributed in triggering the victimization of the population and further worsened the situation for victims.

IV. CONTEXT OF VICTIMIZATION: CIRCUMSTANCES AND METHODS

The Catalogue of the Database enables the identification of the various contexts surrounding the victimization of people. Elements such as the circumstances of the violations, the methods practiced, places and timeframes among others, contribute to the overall picture of the crimes committed and help to categorize patterns of violence relevant to the specific conflicts.

Among the methods of torture registered in the Database are instances of bone fractures; scalp removal; cutting off of ears; removal of nails from fingers and toes; use of gas; suffocation; stab wounds; and the deprivation of food and water. One of the more common methods of torture was the use of electric shocks: at least 223 victims are registered to have received such treatment. To do so, electric wires were connected to open areas of the human body, including the genitals of the victim. Here is the testimony of a 51-year-old victim who at the end of 2004 was delivered by the 'Kadyrovtsy'⁵⁹ to one of the secret prisons, presumably in the village of Tsentoroy, and tortured in a former gym

especially converted and equipped for this practice. The increased intensity of electric currents made the man jolt upwards as if "all [his] nerves and muscles were being torn to pieces". The victim was later released, although in grave condition.⁶⁰

The list of methods of torture is certainly not exhaustive, but rather reflects the most prevalent types that were used. Cases have been registered whereby victims of torture received injections of an unknown substance following which they experienced problems "understanding what was happening", heard noises in their head and had hallucinations.⁶¹ Sometimes, the perpetrators improvised with the means of torture used, for instance, by burning the victim's skin with cigarettes.⁶² In multiple cases, the materials registered describe the applied methods of torture as "perverted".⁶³ The use of torture against combatants and irregular fighters, as well as their relatives, was particularly cruel. This included, for instance, being tied to the rear of a moving UAZ vehicle whilst still alive, as a consequence of which the bodies of victims were torn and mutilated. This happened to two members of the Chechen pro-independence armed formations, as well as two civilians – the son and brother of one of the suspects – who were captured by military personnel on 16 March 2000 in the town of Shali.⁶⁴

The circumstances under which torture was enabled are also of great importance. As can be seen from Chart 5, more than half of the victims of torture registered (1,319) were attacked during targeted (657) or large-scale (662) military operations. Such military actions, which were also known as *zachistkas* or sweeping operations, were

⁵⁹ Kadyrov's security service

⁶⁰ NEDC Victim № 73433

⁶¹ NEDC Victim № 64632

⁶² NEDC Victim № 15329

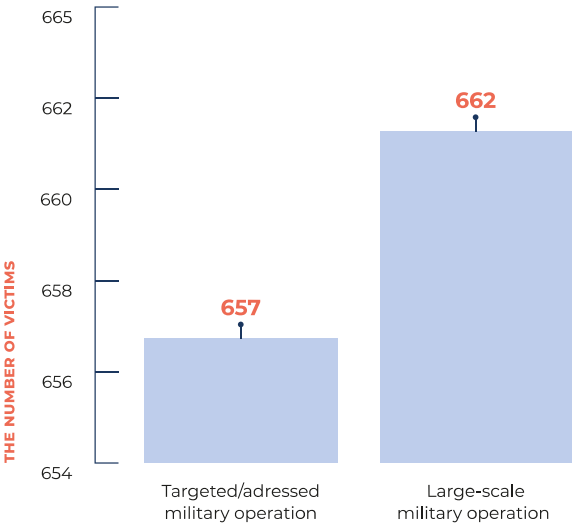
⁶³ In Russian, "изощренные". This description is mentioned, for instance, in the following NEDC Victims profiles: №№ 14544, 9758, 16352, 22453, 15773, 13433, 13353 and others.

⁶⁴ NEDC Incident № 942

infamous instruments used by military and law-enforcement bodies in mass violation of the rights of the population, including illegal arrests, lootings, beatings, torture, disappearances and murders. Depending

on the scale and purpose of the operation, zachistkas were conducted either to target specific individuals or often entire settlements with consequential blockades and mass detentions.

Chart 5.
Victims of torture amid
military operations



Thus, in the morning of 14 July 2000, Russian servicemen burst into the village of Gordali in the Nozhai-Yurtovsky District and opened fire at the homes of local residents using submachine guns and grenade launchers. Amid the shooting and looting, the military selected 16 people and took them outside of the village. The head of the local administration of the village, who was one of the 16 abducted, described the treatment the victims were subjected to:

*...[They] blindfolded us and began to torture. They beat us with rifle butts, tortured with electric shocks, strangled by putting plastic bags on our heads. Ten people were beaten very badly...When they left, we found a whole bunch of syringes on the road. The Prosecutor who arrived at our call the next day said that these were not drugs, but what was it then?*⁶⁵

The Gordali residents were unable to identify the contents of the injections they received. During another zachistka in the village of

Samashki on 22–23 April 2002, military personnel interrogated local residents that were abducted during the operation. They tortured the victims in equipped compartments of an Ural car by placing a rubber hat with wires on their heads and connecting the wires to a source of electric current.⁶⁶

In numerous cases, the attacks which accompanied the use of torture were aggravated by the time at which they were committed. As the Database illustrates, at least 281 victims of torture were assaulted during the night and a minimum of five during curfew hours. Considering that only military forces were given free movement and could therefore safely move during curfew hours, such attacks placed the civilian population in especially vulnerable situations during these hours, notwithstanding the general disorientation and confusion

⁶⁵ NEDC Incident № 743

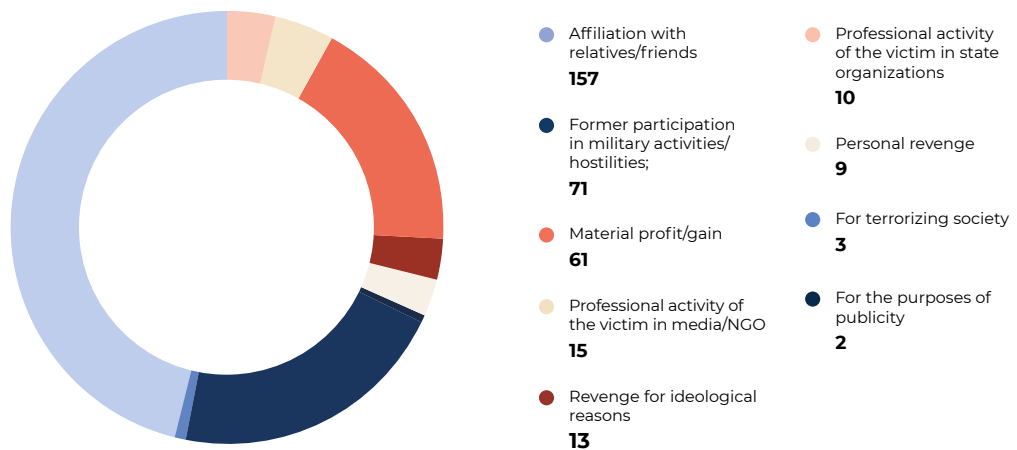
⁶⁶ NEDC Incident № 565

experienced by people during the late and early morning hours.

Large and targeted operations aside, other circumstances also contributed to the increased severity of the violations. Almost a third of all victims (718) were subjected to torture at institutions where violence was used systematically. Among such premises were a military base in Khankala and a remand prison in Chernokozovo. According to the testimonies of victims and their relatives, such institutions used violence excessively and constantly. Chart 6 presents

some of the other factors which contributed to the persecution of victims. As can be seen, victims were targeted by virtue of their affiliation with relatives or friends (157); due to their former participation in military activities/hostilities (71); when there were material gains at stake (61); for personal (9) and ideological (13) revenge; for their professional activities in state organizations (10) or involvement in media/NGOs (15). Finally, some fell victim to acts of terrorism (3) or were pursued by perpetrators for the purposes of publicity (2).

Chart 6.
Selected factors triggering
the persecution of victims
of torture



Many of the victims were released following the payment of ransoms by their relatives in order to prevent the use of torture. Among the requested items of ransom, the most common were monetary payments (including, in foreign currency), followed by jewelry, weapons, cars and alcohol. The practice of paying military servicemen ransom was widespread, and during some *zachistkas* a specific rate for ransom was even communicated to the population. For instance, during the sweeping operation of the village of Chiri-Yurt in the Shalinsky District in May 2001, members of Russian security forces detained several dozen young people. After a thorough check, accompanied by beatings, harassment and torture,

everyone was released, though relatives were forced to pay ransom of 2,000–2,500 rubles for the majority of those released.⁶⁷ Not all of the victims were, however, ransomed out of captivity alive; the section below presents stories of victims of torture who were abused to death.

⁶⁷ See for example NEDC Victim № 64386

V. DEATH AS AN OUTCOME OF TORTURE

Death as an outcome of torture/beatings occupies a separate category in the Database. This category includes cases where victims were beaten or tortured to death by their perpetrators. The conclusions about the crime were made either according to the testimonies of rare witnesses or based on marks of assault on discovered bodies, for example, multiple fractures of bones or deep cut wounds.

The Database contains information on at least 121 such victims, a predominant majority of whom (116) were men, and five who were women. 86 victims, or 71% of the cases, were civilians who died from the actions of law enforcement agencies of the Russian Federation or forces acting in their interests. Two civilian victims suffered torture at the hands of irregular fighters and in four cases it was not possible to determine the identity of the perpetrators. Among those who were tortured to death, at least 17 were combatants and irregular fighters; the status of the remaining victims was either unknown (4) or controversial (8).

One such horrendous story occurred on 9 May 2004 when FSB officers abducted a local resident in the village of Goy-Chu in the Urus-Martanovsky District. During his detention, the victim was beaten with rubber batons, tortured with electric shocks, and burnt with cigarettes throughout the night by officers who were demanding a guilty plea for crimes the man claimed he had never committed. The man was delivered to a hospital the following day, however, his health had deteriorated drastically and a week later he died while being transported to another hospital. The doctors confirmed that the victim died from acute renal failure, anuria, pulmonary edema and damage

to internal organs caused by torture and beatings. The following day his body was taken to Goy-Chu to be buried at a local cemetery.⁶⁸

In another case, on 26 November 2001, during a *zachistka* of the village of Avtury in the Shalinsky District, the military kidnapped a man and his nephew from the former's household. The detainees were tortured and beaten in a nearby forest by the military servicemen who forcibly poured kerosene into their mouths whilst saying: "You have been fasting all day, you need to eat". The victims were then thrown out onto the Avtury-Shali highway; shortly thereafter, the nephew passed away.⁶⁹

The vast majority of victims – 91 people – died while in captivity; in at least 52 cases the assault occurred in the victim's own homes; and 23 others were assaulted during the night.

The presented facts – which are based on the available materials registered in the Database – highlight the particularly endangering conditions the local population were placed in, with multiple factors leading to their subjection to torture and few opportunities to protect themselves and their families. The circumstances presented, which led to the victimization of the population and the use of torture, are, presumably, however only the tip of the iceberg when describing the actual scale of the vulnerabilities of the victims of war. The victims of torture were exposed to multiple vulnerabilities at the hands of perpetrators – such conditions, tragically, not only endangered their physical and mental well-being but could also have taken their lives.

⁶⁸ NEDC Incident № 1301

⁶⁹ NEDC Incident № 1753

VI. TORTURE AS A MEANS OF INTIMIDATION OF FAMILY MEMBERS

The Database describes cases when the use of torture was purposefully directed against relatives of presumed suspects or other wanted targets. As has been highlighted above (Chart 6), at least 157 people became victims of torture due to their affiliation with relatives or friends who were presumed suspects. The use of torture in such cases served a variety of purposes, from obtaining information about the whereabouts of family affiliates to inflicting revenge for wrongdoings allegedly committed by the latter. Among other victims, the Database contains recorded cases of the use of torture against spouses and children, elderly and disabled parents, siblings, cousins as well as more distant relatives.

For example, during the sweeping operation in the village of Tsotsi-Yurt in July 2002, a local family was severely attacked by the military for two days. The military broke into the family's house and threatened to shoot a family member suffering from mental illness,

demanding that he bring his brother – who was at the neighbors for cigarettes – back to the house. After the brother was brought to the house, military personnel began to brutally beat the family members. Not even the new-born, a girl less than a year old, was spared; she was beaten in front of her mother. The military personnel threw a pair of underpants on the child's head, held her by the neck and beat her with a twisted towel while shouting "Chechen bastard!".⁷⁰ The victim's husband was also kidnapped during this assault, however, the following day the victim was attacked in the street by the military personnel in an APC (armored personnel carrier) who demanded she reveal the location of her husband. When she replied that he had already been taken by the military the day before, the abusers attempted to force her into sexual intercourse. As she was trying to resist, the military injected a green liquid into her anus causing her to lose consciousness from the severe pain. The victim's husband eventually returned home a few days after the kidnapping, however the peace and security of the family had been destroyed forever from the torture they had endured.⁷¹

Рассказывает [REDACTED] родственника [REDACTED] «Спустя месяц, [REDACTED] и [REDACTED] каждого по отдельности, не живыми не мертвыми, привели на окраину ст. Чераленная, и выбросили из машин. Их выкупили родственники. Долги, которые они тогда позвонили для этого, до сих пор не отданы. [REDACTED] и [REDACTED] не знали где они находились все это время.

Когда их забирали, я просила оставить хотя бы [REDACTED] так как он оказался в нашем доме случайно – мы попросили его прийти помочь разгрузить комбайны. Один из похитителей, несколько раз сказал – «да оставьте его», однако другие бандиты не пощадили и его. Через три дня [REDACTED] все-таки отпустили. Это был живой труп. Он не знал - где он находился все это время. Его начали лечить. На его теле не было живого места. Мы даже боялись говорить врачам от чего у него такие страшные раны. [REDACTED] повезли на лечение в г. Саратов, где через месяц он скончался от ран, полученных в результате избиений и пыток в плену. [REDACTED] привезли домой и похоронили. После этого, не переживая горя, умерли и его родители.

Состояние здоровья [REDACTED] и [REDACTED] после освобождения было таким же. Все время, пока они находились в руках своих похитителей, их жестоко пытали и избивали. После освобождения, [REDACTED] покинул пределы республики».

NEDC Incident № 598,
NEDC Document № 22640

⁷⁰ NEDC Document № 13366

⁷¹ NEDC Incident № 389

In another case, in June 2004, an entire family was victimized during a special operation in the village of Starye Atagy. Russian security forces severely beat the owner of the household, broke his rib and injured his eye. All this happened in front of his wife, who was threatened with a firearm and insulted with obscenities. The couple's eldest son was locked in another house with his own wife and children, however, the military was interested in the whereabouts of their other son who had been living in Germany since 2000. Prior to suffering the abuse, the owner had begged the security forces to spare him and referred to his recent hernia surgery.⁷²

Similarly, on 16 November 2004 in the village of Oyskhara, armed men dressed in camouflage uniforms burst into a family household. They did not introduce themselves or present any documentation but searched the house and kidnapped the manager of the village administration and his son. The two men were held captive and tortured for two weeks by members of Chechen security forces in the Tsentoroy prison. According to the villagers, the abducted father and son had not taken part in any hostilities, however, they were nevertheless captured as hostages. Their relatives (the nephews of a kidnapped father) were members of the Chechen Pro-independence movement. The victims were released 12 days after the kidnapping.⁷³

On 27 August 2001 in Gudermes, when trying to obtain information from law enforcement authorities about the reasons for the detention of his son, a father was detained by the same personnel. He claimed he was tortured with electric shocks in front of his son who begged the perpetrators to stop, to which they responded: "Do you feel sorry

for your father? We can turn [the machine] again and again."⁷⁴ The father confirmed that the son had also been brutally tortured. The prosecutor's office of the Gudermes District, however, refused to initiate criminal proceedings on the fact of the use of violence in the absence of sufficient proof submitted to establish an offense.⁷⁵

Acts of torture in front of relatives as a means of further pressure were not uncommon. An NEDC document describes the vulnerability of women who were specifically "hunted" in order to convince their fathers, sons or husbands to provide necessary information or confess to crimes they might never have committed. For instance, when failing to obtain information about local Wahhabis (members of a strictly conservative religious group) from a kidnapped dentist in the village of Assinovskaya in January 2004, the military subsequently abducted his daughter and forced her to watch her father's ordeal whilst threatening to beat her instead. When the father eventually lost consciousness, the military left the site.⁷⁶

Torture was often employed for the purposes of forcing an accused person into confession. The Database contains a number of such cases where accused persons or their family members, whilst in custody, were subjected to severe pain or suffering with the aim of obtaining a desired confession, which in turn was later used as the ultimate (and the only) proof of guilt. According to the Joint Publication of the Human Rights Center "Memorial", in 2004 "illegal methods, such as threats to kill relatives and hostage taking of family members were actively practiced by the Chechen pro-Russian security services in order to force the separatists to surrender."⁷⁷

⁷² NEDC Incident № 4176

⁷³ NEDC Incident № 1748

⁷⁴ NEDC Document № 35331

⁷⁵ NEDC Incident № 6017

⁷⁶ NEDC Document № 16690

⁷⁷ NEDC Document № 28741

The Database tells the story of two relatives who were detained in 2007 and brought to the premises of security services in Urus-Martan. Spending more than 11 hours in the facility, both men were subjected to torture and severe beatings in order to confess to crimes they had never committed. The relatives were released, and one of them was diagnosed with “a concussion of the brain, numerous bruises and grazes on his body, on his upper and lower extremities, contusion of the right lumbar region and the lumbar spine.”⁷⁸ Unexpectedly, a criminal case was initiated against the Bureau, however, only pursuant to Article 286 of the Criminal Code of the Russian Federation. As was explained previously, this provision only covers the excess of official powers, and is therefore insufficient in reflecting the entirety of the cruelty of the torture committed and providing for adequate measures to punish the perpetrators.

Some special operations were not limited to the routine extraction of confessions under torture, but also contained additional punitive goals against the families of alleged members of pro-independence armed formations. As revenge for the murder of a forest-guard and the father of a serviceman, a special operation was conducted in the village of Borozdinovskaya in June 2005 by a battalion manned by ethnic Chechens from the division of the Ministry of Defence of the Russian Federation. As a result, one person was killed, 11 were kidnapped and severely beaten, and property was looted and destroyed. Similar to the incident above, a criminal case pursuant to Article 286 of the Criminal Code of the Russian Federation was initiated following the operation, subjecting only one military man to a conditional sentence.

Family members were among the most targeted victims used to exert influence

and pressure when the torture was instrumentalized. However, other victims included friends, coworkers, neighbors, or even people bearing the same surnames. The Database also reveals an incident whereby a driver was subsequently victimized after giving a ride to fellow villagers.⁷⁹

These are only a few examples of when torture was used among other illegal methods to target alleged members of pro-independence armed formations, ordinary civilians or their relatives/friends, with a goal to threaten, punish, extract information, fabricate criminal cases amongst others. Torture was cruel but a common tool of war in Chechnya.

⁷⁸ NEDC Document № 28791

⁷⁹ NEDC Incident № 1151





03

Other Cases of Ill-Treatment and Accompanying Violations

PART III.

Other Cases of Ill-Treatment and Accompanying Violations

As has been mentioned above, the qualification of torture, identification of a specific purpose and the severity threshold is often subjective and had to be differentiated on a case-by-case basis. Often, the testimonies collected during war times were insufficient to draw conclusions or to confirm whether the circumstances indeed amounted to acts of torture. On the other hand, the omission to include such crimes would lead to an incomplete picture of the scope of the atrocities committed. In this regard, the present section attempts to describe violations, which may have qualified as torture as well as violations which accompanied torture during the Russian–Chechen armed conflict.

I. VIOLATIONS WHICH ACCOMPANIED TORTURE

As the Database reveals, torture was rarely the only violation committed against victims, but rather was accompanied by many others. The previous section has already described cases when victims of torture lost their lives as an outcome of the violation. In some cases, the consequential murder of victims of torture, however, could have taken place

without a direct link to the assault and was not necessarily a result of torture/beating. The Database confirms that 507 persons suffered the violation of the right to life, including cases of disappearances and murders. For instance, the Database tells the story of five citizens from Avtury village who were detained at a settlement checkpoint in November 2002. They were taken, together with their car, to the territory of a local farm where the OMON (special-purpose militia detachment) of Arkhangelsk was located. Four men, two of whom were 60 years old, were then kept in earth pits while one woman stayed in the car. All victims were interrogated, tortured and demanded to provide the names of militants and the locations of weapon caches, though none of the detainees held such information. In the following days, the two seniors and the woman were thrown out of the vehicle on the outskirts of Serzhen-Yurt village. The two other men and the car were never found.⁸⁰

Chart 7 lists the most common violations which were committed along with the crime of torture. In addition to the right to life (522), the vast majority of victims faced violations of the right to liberty and security (1,792), to respect for private and family life (548), to health (232), and also had their property rights abused (351).

⁸⁰ NEDC Document № 21684

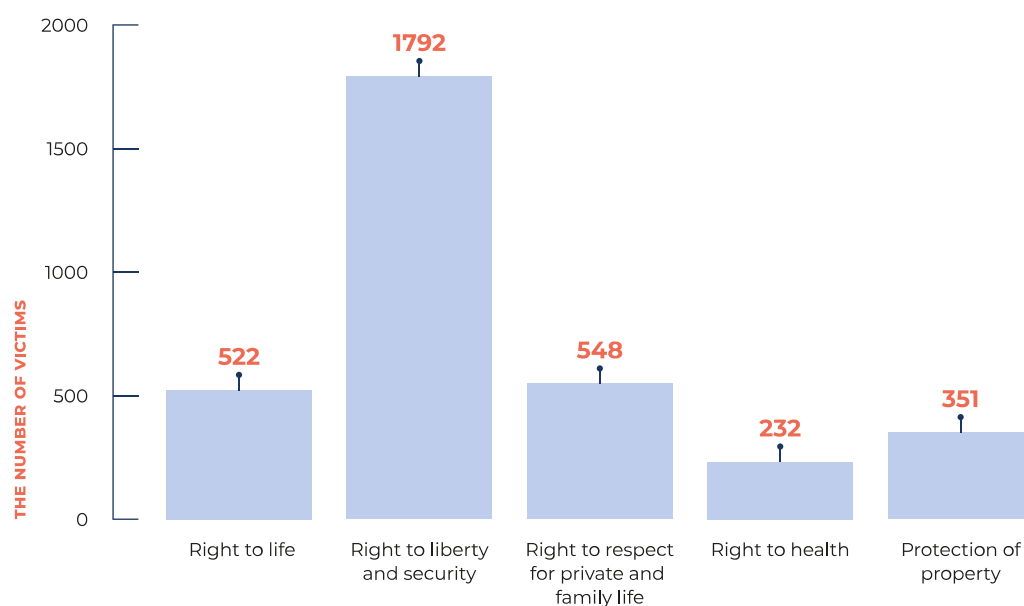


Chart 7.
Violations accompanying
the crime of torture

Victims of torture were typically restricted of their liberty at the time of the violation. During illegal arrests and mass kidnappings, victims were often kept in premises unfit for detention such as filtration points, pits, cells, secret prisons and similar types of premises. While the conditions of detention – along with the deprivation of the most basic needs – could already be defined under various types of mistreatment, victims were also tortured using various techniques in order to extract guilty pleas and confessions. Below is the testimony of a detainee who spent five weeks in a remand prison in Chernokozovo in 2000:

*...Then they brought me the warrant for my arrest, and I refused to sign that. They started to beat me and said that they would shoot me if I didn't sign. There were four of them, two behind me and two in front. Those sitting had no ID, but those walking around had badges on. They beat me with truncheons and sticks, also with iron tubes. They did this whenever you didn't answer their question. There were two guys behind me, they had masks on, and they were ready, just waiting to beat you if you didn't answer their questions...*⁸¹

The victim was also humiliated when he was forced to beg his torturers and say: “Comrade Colonel, let me crawl up to you”.⁸² The man could not recover from the consequences of the treatment received during the detention and developed various nervous disorders, including a stutter.

One case of severe abuse resulted in public outcry. On 6 September 2000, on the outskirts of Naurskaya village, a 55-year-old local shepherd was subjected to torture and sexual violence. Four military personnel from the federal forces castrated the victim using a fishing line and forced the man to swallow the hacked parts of his sexual organ. The abuse did not end there. The military personnel subsequently raped the man using a stick. Two days after the incident, local residents turned to the commandant of the village demanding that the perpetrators be punished. However, following talks with the commandant, the victim abruptly changed his testimony. Shockingly, as per the victim's initial testimony, the military personnel had told him that he was the fourth victim to be subjected to such cruel treatment.⁸³

⁸¹ NEDC Document № 27842

⁸² NEDC Document № 27842

⁸³ NEDC Incident № 3076

In another case, the male victim, who was severely disabled, was kidnapped in Shali on 5 March 2004 by unknown military personnel and subjected to intolerable torture. He was beaten for a long period of time, subjected to electric shocks and sexually abused. According to the victim:

The people who tortured me found more elaborated methods of torture. They tied my penis and scrotum with a rope and subsequently pulled the rope and tied its other end to a hard object. Then they began to pull the end of the rope. At that moment, I was in hellish pain. Once they relaxed the rope, the same questions were asked again.⁸⁴

The violation of property rights and the right to respect for private and family life of victims of torture is distinctly illustrated in the following case. On 29 August 2000, at approximately five o'clock in the morning, Russian military broke into the house of a 65-year-old woman in Grozny. They were apparently searching for her son, a participant of rallies and other non-violent actions during the first Russian-Chechen war. Being unable to apprehend the individual they were searching for, the military began to assault his elderly mother instead. They tied her hands and feet, put her in a chair and began to beat her. The beatings were accompanied by death threats. The woman, who suffered from hypertension, lost consciousness during the interrogation and the military most likely presumed she had died. They stole gold jewelry, the TV and the VCR, and left in an APC. After being treated in the hospital, the victim did not return to her home and instead settled with her relatives in Ingushetia.⁸⁵

Subjecting a victim to multiple violations simultaneously, as demonstrated in the above-mentioned statistics and cases, was

widespread during the Russian-Chechen armed conflict. This practice exposes the failure of the rule of law in its entirety, as opposed to a deviation only in part. While expecting protection from the state, which is purported to guard the interests of the population, an overwhelming majority of civilian victims faced predominant abuses and assaults at the hands of local and federal security forces, whilst also being cornered between warring parties. The list of violations is not exhaustive: the next section describes both mental and physical harms suffered by the victims, which could potentially be defined as torture.

II. OTHER CASES OF ILL-TREATMENT AND VIOLATIONS WHICH COULD HAVE BEEN QUALIFIED AS TORTURE

As mentioned previously, a number of violations did not squarely fit within the definition of torture due to insufficient information being available and were consequently registered in the Database by the analysts as “other types of violations”.

In this regard, as can be seen in Chart 8, the Database contains information regarding victims of the following violations in Chechnya: beatings or other injuries (1,544); murders committed with particular cruelty (434); inhuman or degrading treatment (581); and crimes against sexual inviolability (43).⁸⁶ It should be noted that cruel treatment was not only inflicted on those that were still living: the mutilation of corpses was recorded in at least 343 cases.

⁸⁴ NEDC Document № 6269

⁸⁵ NEDC Incident № 696

⁸⁶ It should be noted that the number of sexual crimes that are registered in the Database is disproportionate when compared to other abuses committed during the Russian-Chechen armed conflict. Being a topic too taboo to discuss due to a number of cultural, religious and ethnic norms, such crimes often resulted in the impunity of the perpetrator, causing irreparable physical and psychological trauma to victims.

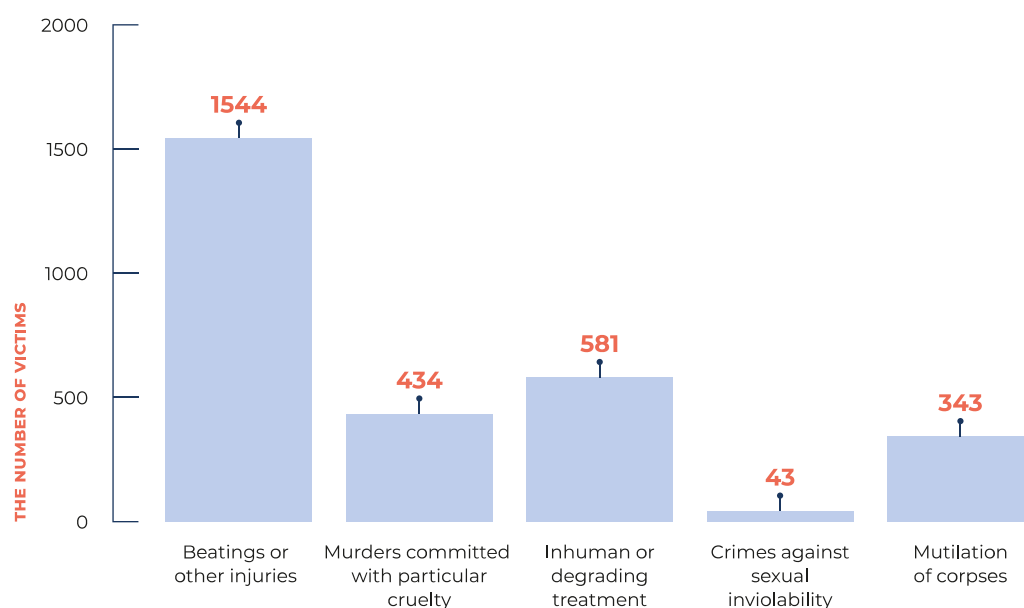


Chart 8.
Violations which could have
been qualified as torture

In the overwhelming majority of the described violations – at least 76% – a connection was established between those responsible for the crime and the actions of the Russian Federation security forces or forces acting in their interests. Below are examples of the abuses in question.

On 28 April 2000, after an attack on a convoy in his area, a man was detained by Russian military and brought to a field between Serzhen-Yurt and Shali. According to the man, the detainees were systematically beaten and humiliated.

*They beat us very often. As soon as they drank, they would beat us. They humiliated us...They would put their fingers right to our noses, and flick it. There was no interrogation. They just asked questions, they wanted me to confess to taking part in the attack on the convoy, but they knew I wasn't a fighter...*⁸⁷

Although there is limited information available on the commission of sexual violence during the conflict, there are nevertheless some accounts of such crimes of a sexual character including but not

limited to: insults and humiliation; forced undressing; acts of a sexual nature by threat of force or coercion; rape (including gang rape and with the use of foreign objects); and castration among others. For instance, late at night on 3 January 2002, several servicemen in an APC broke into the village of Tsotsin-Yurt in the Kurchaloyevsky District. They robbed several stalls and subsequently fired a grenade launcher at a household in which an elderly mother, her four adult daughters and grandchildren resided. The soldiers then burst into the house and found that one of the daughters had been wounded in the leg by the grenade. One of the military men dragged the young woman into the pantry and tried to rape her. When he failed, he urinated on her. While leaving, the soldiers robbed a kiosk which was the sole source of income for the family.⁸⁸

An multitude of such violations was recorded during a zachistka which took place in August 2001, in the village of Alleroy in the Kurchaloyevsky District. The village was blocked by federal forces with numerous armored vehicles. The large-scale operation was accompanied by killings, detentions and

⁸⁷ NEDC Document № 27842

⁸⁸ NEDC Document № 9821

mass robberies of the civilian population. The soldiers, often drunk, circulated their demands through loudspeakers mounted on the minaret of a village mosque. In the aftermath, the soldiers also abused the bodies of some of the brutally murdered villagers by cutting off their ears and noses.⁸⁹

Crimes in which perpetrators were under the influence of alcohol or other toxic substances were not infrequent: the Database contains information of at least 39 such cases whereby different types of mistreatment occurred in the context of intoxicated offenders. In all of the registered cases, the perpetrators in question belonged to Russian security services or forces acting in their interests. The intoxication not only intensified the abuse but may also have been the cause of the violation in the first place. For instance, on 11 December 2001, soldiers of the federal forces drove to a household in the village of Kurchaloy. All of them, including their commander, were drunk. After hitting the father of the family in the face with a rifle, they began to demand vodka, and once it was confirmed that there was no alcohol in the house they demanded the location of where they could obtain some. When the family replied that they did not know where to obtain alcohol from – especially in the month of strict Muslim fasting (Uraza) – the soldiers murdered all members of the family, except a thirteen-year-old girl who had pretended to be dead.⁹⁰

The infliction of physical and especially mental suffering at times could only be determined on the basis of the victim's subjective perception of a situation. However, such a perception was often difficult to assess, particularly when the victims of abuses were children or belonged to other vulnerable groups, such as those who were mentally ill. One such instance is the story

of a mother who found herself with her daughter amid a large-scale operation in the village of Starye Atagy in September 2000:

Russians also burst into my house. I have a sick twelve-year-old girl, she is mute. When the soldiers pointed a machine gun at her, she was very scared, pulled out of my hands and ran down the street. This greatly amused the military, they laughed for a while.⁹¹

As can be seen, besides the clear-cut violations of torture presented in Part II, there were cases when determining the circumstances of the crimes, the severity thresholds and purpose of the abuse was a complicated task involving limited information, lack of details, subjective perceptions and other nuances. Considering the above, many violations may have been accompanied by the use of torture, and thus the scale of the violations described in this publication most likely covers a much larger number of torture victims in the Republic. As reflected in the statistics, and in the accounts of victims and witnesses, various methods of torture were executed on a large-scale against the population of Chechnya. The next section addresses the aftermath of the cases of torture and the efforts (or lack of) of the government to provide justice to the victims of this insufferable crime.

⁸⁹ NEDC Victim № 47473

⁹⁰ NEDC Incident № 3919

⁹¹ NEDC Incident № 598





04

Victims in Search of Justice

PART IV.

Victims in Search of Justice

I did not believe that there was justice possible for me anywhere in the world. Not in Russia, not in Europe, not anywhere. When they told me that we had won our case [before the ECtHR] I felt happy. I was able to believe again that justice is possible. I think that this decision can help other people in Chechnya also know that there is justice. That they can go through the Court and use civilized methods to find justice.⁹²

These words belong to one of two brothers secretly detained in 2000 by the Russian security forces in the Achkhoy-Martan temporary Department of the Interior and in the Chernokozovo detention center. The brothers spent several months in detention and were subjected to torture that included beatings, electric shocks, intimidation by dogs and asphyxiation.⁹³ The ECtHR established that these acts amounted to a violation of Article 3 of the Convention based on the purpose and severity of the ill-

treatment of the two men, who were indisputably kept in a permanent state of physical pain and anxiety owing to their uncertainty about their fate and to the level of violence to which they were subjected throughout the period of their detention.⁹⁴

Not all victims of torture, however, have been able to find justice. As the cases registered in the Database show, seeking justice at the national level has been perplexing and exhausting, while turning to international justice mechanisms put some of the already traumatized victims at danger of further persecution.

As can be seen in Chart 9, victims of torture turned to different institutions when making their complaints; with at least 581 complaints, the national justice mechanisms were the most common resort.

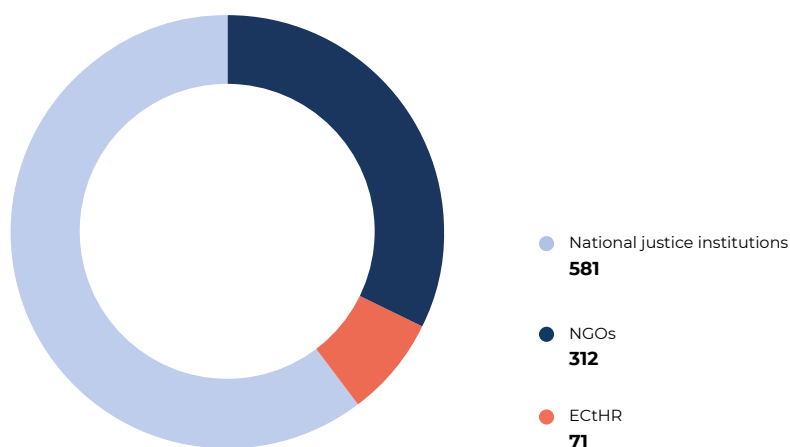


Chart 9.
Victims of torture
submitting complaints to
various institutions

⁹² NEDC Document № 28244

⁹³ NEDC Incident № 857

⁹⁴ *Chitayev and Chitayev v. Russia*, no. 59334/00, Judgment, ECtHR, 18 January 2007, §158

One should be aware that the different categories in Chart 9 are not mutually exclusive. Considering the limited avenues to seek justice – both at the national and international level – many victims and/or their relatives turned to all mechanisms available to them until their options were exhausted. This included prosecution bodies, high-level officials (such as military commandants, Special Representative of the President of the Russian Federation, Ombudsman of the Chechen Republic etc.), NGOs and international courts; sometimes consecutively, often simultaneously.

The Database includes the case of a man, known as G., detained by criminal investigation officers of the Chechen Republic and brought to the Groznensky District Department of Internal Affairs in August 2006, where he was subjected to serious ill-treatment, amounting to torture. The origin of wounds reported in the interrogation report, however, was attributed to a fall from a fence during an escape attempt. Under pressure, including a threat of sexual violence, the victim confessed to all alleged crimes and even agreed to an interview with journalists. Moreover, the attorney assigned to the victim by the investigators recommended him to sign the report as stipulated and was eventually absent during its signing.⁹⁵

In pursuit of justice, the victim's relatives, and later also the victim himself, turned to the Memorial Human Rights Center. The organization engaged a different attorney, who submitted a number of complaints to the Chechen Prosecutor's office. In October 2006, the Office's investigator refused to initiate a criminal case based on the facts of torture presented, justifying his decision by

the unwillingness to "get involved with G., who speaks bad Russian, needs an interpreter and cannot clearly express his thoughts".⁹⁶ Despite the Memorial's appeals to Russia's high-level officials,⁹⁷ the victim experienced the injustices of the malfunctioning system.

Other victims were subjected to torture while in custody or at other stages of case proceedings initiated against them. At least 82 victims of torture have been registered in the Database as 'formally prosecuted by state authorities for alleged wrongdoing'. In such cases, torture was typically used while victims were in custody; often to force a confession. For example, an adult male resident of Kurchaloy village was tortured twice within such a context. A criminal case was initiated against the victim on the basis of possession of an explosive device – as alleged by the military – which the victim denied.⁹⁸ He was subsequently severely beaten in custody, to the extent which he had to undergo medical treatment for the incurred injuries.⁹⁹ In such a system, where victims struggle to overcome the consequences of ill-treatment, it is needless to say that they could not rely on fair proceedings and due process guarantees.

National justice institutions commonly failed to initiate criminal proceedings based on allegations of torture. The Database records at least 30 such cases and NEDC Incident № 957 is an illustrative example; it concerns two victims of forcible abduction by the Security Forces in Alkhazurovo village in the Urus-Martanovsky District in January 2004, who faced numerous obstacles when attempting to submit complaints about their ill-treatment. Despite the obvious signs of torture on their bodies, the District hospital had refused to examine the two men, while the District Department of the Interior

⁹⁵ NEDC Document № 29466

⁹⁶ *Ibid*

⁹⁷ NEDC Document № 37579

⁹⁸ Document ID 3777

⁹⁹ Document ID 22087

rejected their complaints and advised them against any further escalation.¹⁰⁰ In another incident in June 2006, a 26-year-old man had appealed to the Chechen Prosecutor's Office with a complaint relating to torture in the ORB-2, involving coerced self-incrimination by his employees. Just two days later, the man received a signed refusal to initiate the criminal case, based on the ORB-2 officers' denial of any "pressure" being applied to the victim and a referral to a seemingly non-existent medical examination.¹⁰¹ The list of registered cases in the Database, however, is hardly representative of the actual situation since this category was only applicable when the materials directly referred to the refusal.

One of the few high-profile incidents described in Part II of this report – a special operation in Dai which was accompanied by killings and torture – generated a lot of publicity and is itself unique, given that the case against the Russian military was taken to court. As a result, in 2007 a major from the GRU special forces was convicted of murder and sentenced to nine years' imprisonment to be served in a high-security penal colony. Three other members of the special forces were convicted *in absentia*.¹⁰²

However, the case presented above is a rarity; in the majority of cases, available justice mechanisms in Russia were either unable or unwilling to provide effective investigations into the cases of torture committed during the Russian-Chechen armed conflict.

It is noteworthy that keeping abreast of the development of situations at different stages of the national justice system was a difficult task, particularly as many of the documents were limited to references stating simply that "relatives/victims had turned

to the national justice mechanisms". Based on the data available in the Database, NEDC analysts recorded *some* pre-trial investigation activity in at least 411 cases. However, the effectiveness and willingness of authorities to investigate and punish perpetrators of such crimes were rather low. An analysis of the incidents indicates that many victims instead turned to NGOs for help and protection. Such support amid the armed conflict, as well as under the pressure of further persecution by the perpetrators, was often vital and the only help available to the victims of torture. At least 312 cases are registered in the Database as having been referred to NGOs. In reality this number is much higher as the stories of each victim's search for justice are still being evaluated within the NEDC. The NGOs were capable of recording the details of the crime as well as assisting applicants in national or international proceedings. For instance, the Database reveals that NGOs supported at least 51 applications to the ECtHR.

Chart 9 reveals how some victims endeavored to seek justice at an international level. Whereas in some cases the Court was able to establish a violation of Article 3 of the Convention, in others there was simply not enough evidence. For instance, in the case of *Khashiyev and Akayeva*, the Court found that while the murders of the applicants' relatives in January 2000 by Russian military in Grozny were confirmed, the allegations of torture were doubtful. The Court observed that despite witnesses' testimonies regarding torture marks, "the applicants did not contact the authorities or medical doctors nor did they take photographs of the bodies at that stage, due to a state of shock and general distrust of the authorities".¹⁰³ Considering that other documents relating to the case only mentioned firearm wounds, the Court

¹⁰⁰ NEDC Incident № 957

¹⁰¹ NEDC Document № 28702

¹⁰² NEDC Incident № 430

¹⁰³ *Khashiyev and Akayeva v. Russia*, nos. 57942/00 and 57945/00, Judgement, ECtHR, 24 February 2005, § 173

was unable to establish the account of torture “beyond all reasonable doubt”.¹⁰⁴

The ECtHR was not always able to provide the desired justice to victims due to the admissibility criteria. The Database demonstrates that in at least 22 cases, applications to the Court on the grounds of a violation of Article 3 of the Convention were found to be non-admissible; in 19 other cases they were only admissible in part. In 2012 alone “22,142 applications were declared inadmissible or struck out of the list of cases by a Single Judge, a Committee or a Chamber”.¹⁰⁵ For instance, in *Murtazaliyeva and Others against Russia*, the applicants invoked violations of Articles 2 and 5, and also claimed under Article 3 that “they had endured mental suffering as a result of their relative’s disappearance and the authorities’ reaction thereto”.¹⁰⁶ The Court, however, rejected the application for failure to comply with the six-month time limit specified in the Convention, and found that “the applicants have not shown convincingly that any concrete advances were being made that could justify their inactivity for more than eight years”.¹⁰⁷ Other reasons for inadmissibility also related to: the non-exhaustion of domestic remedies; the abuse of the right of application; issues with

attribution of the violation in question to the State; manifestly ill-founded applications; and other concerns which prevented the Court from exercising its capacity to act on behalf of those who had suffered.

It is evident that the pursuit of justice amid the armed conflict in Chechnya and its aftermath, has been a complex, burdensome and perilous process for the victims of the war. While international resources have been limited and complex, national mechanisms were neither able nor willing to hold perpetrators accountable for the committed crimes, notwithstanding the implication of state agencies in mass violence. Turning to NGOs or appealing to high-level public officials, the victims were desperate to restore justice via all available means and methods; and while only a few have succeeded, thousands of others remain hopeful to this day for a just and fair redress of the grievances of their horrendous past.

По словам родственников, погибшие были убиты выстрелами в головы - у каждого на затылке имелось входное отверстие. Кроме того, на всех трупах имелись многочисленные следы насилия. Так, у [REDACTED] помимо многочисленных огнестрельных ранений, имелись множественные гематомы, ладони на руках были багрового цвета, с почесанными ногтями. У [REDACTED] на месте правого глаза зияла глубокая рана. Предположительно, убиты они были незадолго до обнаружения тел - не было явных следов разложения, трупный запах не ощущался, из ран выступала кровь.

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¹⁰⁴ *Khashiyev and Akayeva v. Russia*, nos. 57942/00 and 57945/00, Judgement, ECtHR, 24 February 2005, § 174

¹⁰⁵ Analysis of Statistics 2012, ECtHR, p.4, available at: https://www.echr.coe.int/Documents/Stats_analysis_2012_ENG.pdf (last visited on 04.12.2020)

¹⁰⁶ *Murtazaliyeva and Others against Russia*, nos. 11708/11, Decision, ECtHR, 24 September 2019, §§ 23-26

¹⁰⁷ *Murtazaliyeva and Others against Russia*, nos. 11708/11, Decision, ECtHR, 24 September 2019, §33

Conclusion

Former United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Juan E. Méndez, had once called upon humanity to

*Imagine a world where torture is not condoned and those individuals who perpetrate torture are promptly brought to justice through the full force of the rule of law. Indeed, this should not require a stretch of the imagination.*¹⁰⁸

Undeniably, with all the international, regional and national legal mechanisms set to prevent and protect populations from the gravest crimes, torture ought to have been a relic of the past. Unfortunately – and the current publication serves as further proof – the commission of the crime of torture is a persistent reality.

The present report endeavored to recount the crime of torture and other types of ill-treatment committed during the Russian–Chechen armed conflict. Being limited to the data available to the NEDC, the publication nevertheless demonstrates a picture of the abuse committed during the mentioned conflict. Thus, relying on the rules and standards of international law, it describes victims of torture and their vulnerabilities. It shows how the vast majority of those who suffered belonged to various age, gender and health groups among the civilian population and faced abuses predominantly from the security forces of the Russian Federation. The report also provides insights into the context of victimization of the population; while the circumstances of the conflict already placed vulnerable victims in difficult positions where they were unable to protect themselves, the methods of torture presented in this publication were often specifically designated as ‘perverted’. Finally, the report describes violations which accompanied torture or could have been qualified as torture, if more information was available about the severity and purpose of the acts. These included beatings, inhuman or degrading treatment, sexual violence, murders of specific cruelty, and mutilation of corpses. Reflecting on the range of abuses which did not necessarily qualify as torture, together with incidents which were not recorded by NEDC donors and sources, the scope of the crime of torture committed during the armed conflict in Chechnya most likely expands far beyond the numbers presented.

¹⁰⁸ Juan E. Méndez, *International Day in Support of Victims of Torture*, Geneva, 26 June 2014, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14781&LangID=E> (last visited on 20.11.2020)

Finally, the report reflects a selection of cases whereby victims have attempted to seek justice before national and international institutions. This has revealed the scarcity of justice opportunities available to those who have suffered and demonstrated how efforts to punish the perpetrators were silenced and used to re-victimize the claimants. Despite the continuous struggles of the ECtHR to bring a forgotten justice to the victims of armed conflicts, the prerogative and obligation to identify and punish perpetrators lie with the State. In this regard, the will of the government to take fully-fledged actions and conduct effective investigations is essential for the healing and recovery of suffered communities in the aftermath of the conflict.

As has been mentioned previously, the present report does not – and cannot – comprise all cases of torture committed during the Russian–Chechen armed conflict: the complexities of this long-standing war have rendered such a task impossible. However, the statistics and materials relating to the crimes presented in the publication, contribute to further efforts to record and chronicle the evils of the past in order to build a just and restored future.

