



Statewatch analysis

Spain: Report reveals catalogue of abuses, highlighting the “persistence of ill-treatment and torture”

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The annual report for 2006 by the *Coordinadora para la prevención de la tortura* (Cpt), presented on 12 May 2007 by this network encompassing 44 civil society groups working on the issue of torture, details the cases of 616 people who allegedly suffered incidents of torture and ill-treatment in 2006 in relation to 270 incidents, presented as evidence of “the persistence of torture and ill-treatment in Spain”. The figures in this detailed report are admittedly not exhaustive, as cases were excluded when incidents were not sufficiently documented or on request from the victims themselves. In-depth monitoring of proceedings resulting from claims documented in previous years is also included in the report.

Incidents reported fall within the UN definition:

“any act whereby a person is subjected to pain or serious suffering, both physical and mental” for the purposes of obtaining information, punishment, intimidation or coercion, “when they are inflicted by a public officer or another person in the exercise of their public duties at their behest or with their permission”.

The 270 cases are dealt with individually, detailing the circumstances surrounding violent interventions by law enforcement officers, their nature and related judicial proceedings or rulings. The report concludes that the persistence of torture and ill-treatment shows the importance of an effective implementation of the optional protocol to the UN Convention against torture, ratified by Spain in April 2006 (see *Statewatch vol.16 no. 2*). Independent supervision by civil society groups, and compliance with recommendations made by bodies such as the UN Committee for the Prevention of Torture (CPT) and associations such as the *Coordinadora* itself, are viewed as key factors in the eradication of this phenomenon. A document monitoring the implementation of recommendations made following a visit to Spain by the then rapporteur in 2003 was sent by the *Cpt* to the UN Committee, highlighting a number of shortcomings.

Figures

The geographical distribution of the claims shows that two thirds of them were concentrated in four autonomous communities, in this order: Catalonia (23.4%), Andalusia (22.6%), Madrid (11.7%) and Euskal Herria - the Basque Country - (10.2%), and the provinces with the highest number of claims were Barcelona (51), Madrid (28), Alicante (18), Málaga (15), Cádiz (14) and Seville (11). The only region from which no allegations were received is La Rioja, as was the case of 15 provinces nationwide. There were large increases in Catalonia (from 77 to 144, particularly in Barcelona, where they were more than twice the figure for the previous year) and Galicia (from 21 to 49), with lower figures in Euskal Herria and Navarre than for 2005.

The group that was most often on the receiving end of alleged cases of ill-treatment or torture, were participants in social movements or protests (186 cases, 30.5%), followed by migrants (109, 17.9%), trade unionists (82, 13.4%) and prisoners (74, 12.1%), with the number of allegations relating to periods of incommunicado detention falling sharply (from 77 to 6 cases, equivalent to 1%). The body against which the most complaints were filed was the national police (250 cases), followed by local police forces (133), police forces of autonomous regions (84), prison officers (73) and the Guardia Civil (50). With regards to the judicial situation of officers against whom lawsuits were filed that were included in this or previous *Cpt* reports (901), 10% (91) were found guilty and 37% (333) acquitted, with a majority of proceedings not having come to either of these outcomes. Going back to 2001 and including selected cases from earlier years, the figures are of 3,079 officers accused, of whom 7% (214) were found guilty and 23% (699) acquitted, and 70% not resolved either way. As for deaths in custody, 60% of the 63 documented cases for 2006 (5 less than in 2005) took place in prisons (38), with 11 deaths in Guardia Civil stations, 8 in local police stations and 6 in national police stations.

The cases: a catalogue of abuses

The reports of torture and ill-treatment listed for 2006 (pp. 43-132), drawn from interviews with the victims or their lawyers, judicial proceedings, and information from groups participating in the *Cpt* and from other human rights associations, as well as media reports when it was possible to confirm the information, detail an array of alarming incidents.

The deaths of suspected robbers as a result of police firing their weapons as they attempted to flee were documented in Cieza (Murcia), where a suspected robber died after failing to stop when Guardia Civil officers ordered him to do so before firing at least 11 bullets (case no. 10) and in Coslada (Madrid), when a man escaping in a stolen van died after being “fortuitously” hit by a bullet as national police officers fired in the air and at the van’s wheels, and being taken to a police station rather than a hospital (case no. 21).

Interventions by officers using force that resulted in deaths included a Belgian man detained by municipal police officers for causing a public disturbance in Marbella (case no. 31), a man in Santa Pola (Elche) who was restrained by municipal police officers after allegedly threatening passers-by with a needle (case no.122), and a man in Avilés (Gijón) who was causing a disturbance and was restrained by local police officers who were aware that he was a paranoid schizophrenic (case no. 125).

Apart from a large number of deaths in prisons, most often catalogued as suicides, overdoses, or as resulting from ill-health (with AIDS figuring prominently) or heart attacks, cases in which people died following detention are detailed, including a sub-Saharan migrant who disembarked in Playa de los Cristianos (Tenerife) and was detained in spite of repeatedly asking for medical help without being examined or transferred to hospital (case no. 203), and a man who had a heart failure after being restrained by local police officers in Novelda (Alicante) during a heated argument, and being injected with a tranquilliser by a doctor, although he had told officers that he was under the effects of drugs (case no. 62).

The use of rubber bullets was detailed in interventions during a party in Girona (case no. 4), a town feast in Sangüesa (Navarre, case no. 202), the celebration of a league title by Barcelona fans in Granada (case no. 114), demonstrations in Gasteiz (case no. 45), Pontevedra (case no. 108) and Seville (case no. 159), a funeral in Santzurzi (Bizkaia, case no. 49), during identifications in Melilla (case no. 59) and during attempts to cross border fences in the Spanish enclaves of Ceuta and Melilla (case no. 156), including the one by a Cameroonian national who died in Nador (Morocco) on 7 January 2006 after having several rubber bullets shot at him during an attempt to cross the border fence in Melilla (case no. 5). A *Comisiones Obreras* trade union press officer told *Statewatch* in 2004 (see *Statewatch* vol. 14 no. 2), in reference to protests by *Izar* shipyard workers that involved clashes with the police, that the firing of plastic bullets by police to disperse demonstrations was so widespread “that we do not report it anymore”. In one case in December 2006, a policeman reportedly intimidated participants in a march against police abuses in Olot (Girona) by wielding a pistol (case no. 264).

“*Botellones*”, gatherings of youths to drink in public spaces that have been illegalised in several cities, are increasingly bearing the brunt of violent interventions by the police, particularly when youths refuse to leave or react violently. Incidents in the report include one case in Barcelona that resulted in 54 arrests and 32 people being injured, as well as giving rise to a claim of sexual abuse for fondling (cases no. 65 and 66) by an 18-year-old girl. Other cases took place in Granada (case no. 104) and in Seville (case no. 250), where officers deployed to prevent *botellones* targeted people drinking outside a bar, ordered them back into the bar before beating them at the exit as they left.

Beatings in custody were also reportedly suffered as a result of discussions with off-duty officers (case no. 128), of an antimilitarist demonstration outside army barracks (case no. 144), as well as a number of incidents in which inmates reported being beaten by prison officers (cases no. 7, 50, 58, 60, 61, 69, 72, 121, 131, 134, 138, 148 -repeated after he wore a T-shirt reading “torture takes place in this centre” to a concert in the prison-, 153, 162, 170, 189, 199, 208, 215, 226, 241, 245, 248) with Brians prison in Barcelona and Zuera “macroprison” in Zaragoza figuring repeatedly.

There were also cases reported involving people claiming they were tortured during incommunicado detention and transfers to Madrid in relation with terrorist offences (cases no. 133 and 193), including a woman arrested in Bilbao who claims that, during incommunicado detention, she was forced to do press-ups with a bag over her head, made to strip naked and pushed about by five officers standing around her in a circle, received rape threats, was touched, had a bag placed over her head and was threatened with the use of electrodes (case no. 93). Nonetheless, as mentioned above, the number of incidents of torture and ill-treatment during incommunicado detention reported was considerably lower than for previous years.

Shortcomings in the implementation of recommendations from the UN Rapporteur

A critical study on the implementation and follow-up of recommendations made by former UN Special Rapporteur on torture Theo van Boven in 2003 (*see Statewatch news online, analysis 33, November 2004*) following his visit to Spain that was submitted by the *Coordinadora* to the UN's Committee for the prevention of torture in October 2006 is also included. Van Boven's report, which claimed that torture was practiced "more than sporadically" in Spain, drew a heated response from the then Spanish government of José María Aznar, which sought to discredit van Boven (who described the atmosphere in Madrid during his visit as "hostile" in a talk organised by the *Cpt* in 2006) accusing him of partiality for using documentation from associations linked to terrorist ends, and of lack of understanding of the Spanish context.

Gap between principle and practice

Referring directly to the recommendations (a-j) and detailing developments - legislative, judicial, public statements by political authorities, and events on the ground alike-, the *Cpt* presents a scenario in which persistent official condemnation, statements of the unacceptable nature of torture and guarantees that such practices will be promptly and effectively investigated and sanctioned, is accompanied by denial of the practice of torture and deficient investigation of alleged abuses.

Thus, the *Congreso* (parliament) approved a motion calling on the government to implement measure against impunity by guaranteeing human rights in prisons through measures like the video recording of interrogations during incommunicado detention and the presence of doctors or professionals to pre-empt the occurrence of such practices, and by implementing the Optional Protocol to the UN Convention against Torture requiring a comprehensive policy to prevent, to react firmly and promptly and to protect torture victims, as well as the creation of a Sub-committee against torture involving representation of human rights associations and civil society groups.

Nonetheless, expressions of support lent by national or local political authorities to police forces or officers against whom allegations were made were widespread, and the reports cites mayors, local councils, heads of local police forces and the general director of the Guardia Civil, Carlos Gómez Arruche, as examples. When cases cannot be denied as they are well documented, their importance was often minimised by public authorities, who expressed solidarity to the accused in certain cases, sometimes reiterated after officers were found guilty by courts. Responses to such verdicts included promotions, pardons approved in city council plenary sessions and executed by the government followed by reincorporation into police forces, campaigns to discredit the victims of abuses through the release of police files (which go beyond their criminal records, when these exist) and public acts in support of officers against whom guilty verdicts were reached.

In spite of deputy prime minister Fernández de la Vega's announcement in June 2006 that preparation of a national human rights plan was underway, associations that are part of the *Cpt* complained that information had not been forthcoming about this plan. As for concrete initiatives announced or introduced, the report notes that the announcement of a protocol for *Mossos d'Esquadra* (Catalan police force) interventions concerning individuals with mental illness following a death during detention in October 2004, no news had surfaced of its implementation. The implementation of a protocol for assistance to people in incommunicado detention adopted by the Basque regional government for the *Ertzaina* (Basque police force)

had not stopped new allegations from being levelled against its officers, although figures from the 2007 *Cpt* report indicate a considerable decrease in allegations of abuses filed.

Special regimes and incommunicado detention

The so-called FIES detention regime (*Fichero de Internos en Especial Seguimiento*) that involves the obligations to spend most of the day in cells -up to 22 hours-, exclusion from collective, sports or work activities and strict security measures, is still applied to around 1200 people. An appeal questioning the legality of this regime brought by organisations from the *Coordinadora de Solidaridad con las Personas Presas* was dismissed by the *Audiencia Nacional*, a decision that has been appealed before *Tribunal Supremo*. A CPT report from 2002 deemed that it appeared that “the material conditions of detention, and especially the sensory deprivation suffered by these inmates” applied to FIES prisoners contravene prison methods for the re-socialisation of prisoners and “may be considered treatment forbidden by article 16 of the Convention”.

Reforms envisaged to limit the application of incommunicado detention making it exceptional in cases involving arrest under antiterrorist legislation, are viewed as merely enacting the “exceptional” legal status of this measure, whereas its application is currently “the norm” in such cases. The systematic request by police forces for detainees held on suspicion of terrorism to be placed in incommunicado detention, means that the latter are often held incommunicado for five days, which can be extended to a maximum of thirteen days (5 in police stations and a further 8 in prison). The report notes that initiatives in parliament by the *Eusko Alkartasuna* (EA) and *Esquerra Republicana de Catalunya* (ERC) to derogate this regime have been repeatedly defeated by the Socialist and Popular parties, which jointly enjoy a comfortable majority in both the Congress and Senate and consider the measure “a guarantee for security in the fight against terrorism”, in the words a Socialist party spokesman. Proposals to regulate incommunicado detention from the Basque parliament met the same fate.

Access to lawyers, doctors and effective investigation

Shortcomings are also highlighted with regards to the access of detainees suspected of terrorism to lawyers of the defendants’ choice -they are assisted by court-appointed lawyers on duty and are often denied private meetings with them before making a statement before a judge-, to the informing of families of the arrest and place of detention, and to the possibility of being examined by a doctor of their choice. The report claims that lawyers have been reported to judicial authorities for reminding defendants of their right not to answer certain questions, and judges have reprimanded defence lawyers for condemning the treatment their clients received in detention or for criticising them for failing to record their claims of ill-treatment. Requests by suspects for doctors of their choice to examine them, which are not frequent, are “systematically” refused, and reports by forensic doctors are alleged to frequently be “deficient”, sometimes resulting in acquittals for accused officers. There have been few developments with regards to the CPT’s recommendation that interrogations be recorded (preferably on video), and examples are given of instances in which the loss or “taping over” of relevant recordings has led to the shelving of judicial proceedings against officers.

As for the state’s duty to investigate allegations or reports of torture and ill-treatment promptly and effectively, to adopt legal measures including the suspension

of officers while they are under investigation, and for the investigations of cases to be independent from the author and the body they serve, the report notes that “these recommendations are not met”. Cases sometimes take several years before being heard in court and longer until a firm sentence is reached, there are lengthy delays before medical checks on victims are carried out (making the existence of violence more difficult to ascertain) and statements are taken from them, while pre-emptive measures against accused officers are rarely imposed, often on the basis of the presumption of innocence. Moreover, the forces from which the accused officers proceed are often involved in the investigation of the facts, with judicial enquiries often “paralysed” until a report from the force involved is received by the investigating judge. Measures to compensate victims of torture are rarely applied, and they are often charged of offences in response to their allegations, which they sometimes withdraw as a result of the possibility of them leading to further sanctions against them. Campaigns to discredit victims by the accused officers or institutional figures responsible for their force have also been reported, as have harassment or instances in which they have suffered aggressions. Finally, guilty verdicts are described as “arriving after very long delays, with very light sentences” that are often not served as a result, and the monetary compensation ordered by judges tends to be small. This claim is borne out by the meticulous monitoring activity and information produced concerning judicial decisions adopted in cases involving allegations against law enforcement and prison officers from previous years (comprehensively as of 2001) by the *Cpt*, that are included in its 2006 report.

The recommendation for prisoners from the Basque Country to be detained close to their place residence with due consideration given to their maintaining social relations with a view to reinsertion, is not complied with, as 98% of people arrested for terrorist offences are destined to prisons outside of the autonomous community as part of the policy of “dispersal” of terrorist suspects. Moreover, the same also applies to many offenders convicted of serious offences to whom the 1st degree regime (a “closed prison regime” involving stringent security measures including isolation, applied to prisoners considered “extremely dangerous” or “manifestly and seriously not adapted to the general norms for orderly coexistence”, including members of organised criminal groups, terrorist organisations, etc.) is applied, due to the absence of facilities for holding this category of prisoners in the Basque Country (and also in other autonomous communities including Catalunya). The lack of exhaustive scrutiny of instances of torture or ill-treatment against foreigners and Roma is noted, but *Cpt* report notes that its reports for 2004 and 2005 record 46 and 133 instances respectively. Finally, the ratification of the Optional Protocol to the UN Convention against torture by Spain in April 2005 is welcomed.

“La tortura en el estado español 2006”, *Coordinadora para la prevención de la tortura*, 12 May 2007. (in Spanish)

Summary (pdf, in Spanish):

http://www.prevenciontortura.org/spip/documents/Resumen_Informe_2006.pdf

Full-text (pdf, in Spanish, 296 pages):

<http://www.prevenciontortura.org/spip/documents/2006-InformeCPT.pdf>

Some incidents and developments from 2007 that are likely to feature in next year’s report and appear to bear out the findings of the report include the following:

Galdeano’s death caused by “cocaine” in spite of lengthy beating

Juan Martínez Galdeano died in Roquetas del Mar (Almería) on 24 July 2005 (see *Statewatch vol. 15 nos. 3/4 & case no. 243 for the year 2005 in the Cpt report*) in a

Guardia Civil station where he had sought assistance after a car crash, following a beating by officers whose final stages were witnessed by passers-by as the incident continued outside the station. In spite of evidence that the 39-year-old farmer was subjected to a lengthy beating that included the use of non-regulation weapons (an extensible truncheon and a gun firing electric discharges), and injuries that included widespread bruising, a broken sternum and a dislocated rib, the main cause of his death was deemed to have been an adverse reaction resulting from his having consumed cocaine prior to the incident. Three of the eight officers involved, all of whom were suspended during enquiries due to the “social alarm” caused by the case, were found guilty in Almería on 28 April 2007, with the remaining five acquitted as they were deemed not to have been in a position to stop their colleagues. The lieutenant who was in charge of the station had a 15-month sentence and three years’ disqualification from public office imposed on him for a “not serious attack against moral integrity” and “causing bodily harm”, whereas the other two officers were found guilty of “bodily harm” with the aggravating circumstance of abusing of a position of authority, and were fined. The sentences were far lower than requested by prosecutors, and none of the officers are expected to serve any time in prison. An appeal is expected by the public prosecution and lawyers representing Galdeano’s family, with the latter noting that: “The forensic report opens the way for any citizen to think that people who have consumed cocaine can be beaten to death”.

Large-scale beatings to disperse youths drinking in central Madrid

On two public holidays, on 1 and 2 May 2007, attempts by police to disperse youths drinking in a popular location for the *botellón* (see above), the Plaza Dos de mayo (thus named after the insurrection of Madrid against the French in 1808, which is a public holiday in Madrid and was captured in Goya’s painting of the *Execution of the Defenders of Madrid* of the following day) in Malasaña in central Madrid, ended in running battles and large-scale beatings of the youths and passers-by by the police. Around 2.30 am, after municipal officers responsible for preventing these gatherings called for back-up, six vans of riot police (*Grupo de Intervención Policial*) arrived on the scene and, following the throwing of bottles and stones, began a two-hour rampage in which youths involved in the *botellón*, passers-by, including journalists, and people who were leaving bars (that shut at three unless they have special licenses) were struck with truncheons, kicks and punches, rubbish bins were tipped over and set alight. Several witnesses were quoted in *El País* newspaper explaining how they were injured in spite of not having any idea of what was going on. The scene was repeated on the following day, with the entire area the scene of violence by police, including beatings and the firing of rubber bullets, stone, bottle and brick throwing by the youths and a large fire set in Plaza Dos de mayo. Official figures for the incidents recorded 15 arrests and 68 people injured.

Mossos captured on camera abusing detainee

A secret camera in the *Mossos d’Esquadra* station in Les Corts (Barcelona) captured the beating of a detainee by four officers from the Catalan police force on 31 March 2007. After entering a room for searches to be conducted, and having his handcuffs removed, the man is seen talking and gesticulating with his arms, touching one of the officers on his side. The officers then jumped on him, one of them striking him in the stomach with his knee, with another one kicking him as two officers dragged him on the floor, and the blows continued to strike him for another half-minute. After cleaning up the blood with paper and completing the search, the man was carried out of the room by the officers. This official video recording documenting the beating

resulted in the suspension of the four officers involved by the interior department of the *Generalitat* (Catalan government) on 11 April 2007.

El Pais, 28.4, 1-2.5.2007.