

Toward Truly Outlawing Torture

The torture of human beings is a scandalous heritage handed down to present-day civilization from prehistoric times of savage ignorance. Even today, a number of states practice torture that is legal according to their laws. The Soviet Union is one of the signatory states of the United Nations Convention on Protection of all people from torture. However, the Soviet Corrective Labor Code contains recommendations for punishing prisoners in concentration camps and prisons, which in their application are subjectively experienced as torture. These recommendations include (i) the penal isolation cell, (ii) the prison detention cell, and (iii) a reduced food ration under a severe prison regime. I myself was repeatedly subjected to all of these forms of punishment while detained in Soviet prisons and camps, and as a physician I can testify that penal isolation and prison detention cells are experienced by a human being as torture because of hunger, cold, and sleep deprivation. Moreover, in Soviet detention practice other forms of torture are being widely applied, including torture by handcuffs, torture by preventing a prisoner from relieving himself, and torture by drugs affecting a person's psyche (in psychiatric hospitals).

In other countries, such as Chile, repeated terrorization by sham execution or being forced to watch the torture of loved ones are forms of torture that do not involve physical punishment. In South Africa, children as young as 9 or 10 years old are placed in isolation cells.

Two aspects of torture must be defined: torture as an action perpetrated by the torturer; and torture as a condition suffered by the victim. Any action which deliberately causes physical or mental suffering to a human being, with the aim of compelling him or her to a certain behavior, or of punishing him or her is torture as an action. A feeling of physical pain or mental suffering inflicted by one human being on another, with the aim of constraining or punishing the victim, is torture as a condition.

However, let us examine the definition of torture serving as the basis of the "Declaration against Torture" of 9 December 1975, passed by the U.N. General Assembly (1). At a glance, it is clear that the definition of torture contained in Article 1 is completely untenable. Torture is defined only in terms of the action of the perpetrator. Instead of a qualitative designation of the terms "pain or suffering," they are given the purely quantitative description of "severe," upon which a

qualitative definition cannot be grounded. What does "severe pain" mean for different people? And how should the degree of "heaviness" be gauged? A certain pain or suffering may be felt as light, yet experienced as a torture if endured for a long time. A severe pain, on the other hand, may almost at once cause a person to lose consciousness even before having been felt or registered as torment. Still, the torturer needs his victim to be conscious in order to concede to the threat of violence. This is why torturers apply severe pain repeatedly. The fear of undergoing pain, even before the physical torment has begun, or begun again, constitutes a psychological torture. Psychological torture involves the protracted impact of negative experiences on a person. All the above-mentioned practices and experiences are by no means covered by the simple description of severe pain.

The authors of the Declaration, by defining torture only in terms of actions carried out or instigated by officials, have omitted one important aim of torture—securing a certain behavior from the victim. This is the goal of the torture of political prisoners in the Soviet Union and elsewhere.

A reservation in Article 1 of the "Declaration against Torture" merits special attention. According to the passage, the definition of torture does not apply to "a pain or suffering resulting merely from lawful imprisonment . . . to a degree compatible with the Standard Minimum Rules for the Treatment of Prisoners" (to which several countries, including the U.S.S.R., are not signatory). Paragraph 1 of Article 32 of the Standard Minimum Rules (2) stipulates that "punishment by way of reducing nutrition may be applied." Paragraph 2 of the same Article states that "the same applies to other modes of punishment susceptible to causing the physical or psychological detriment of the person punished." These statements represent an explicit approval of the application of torture to any prisoner in a U.N. member state. That Paragraph 3 states "a doctor must see prisoners exposed to such punishments daily" does not account for the possibility that the doctors may be used only to keep the victim alive for further torture.

By intentionally including a proviso allowing the torture of prisoners, the authors of the document have been guided by "the aim of the present Declaration." An objective analysis shows that the basic aim was not to change existing prison conditions in a spirit of contemporary notions of humanness, but rather to pass an international proviso that would normally legalize those conditions in their present state. If democratic countries accept Article 32 of the

Minimum Rules, what treatment of prisoners may be expected of totalitarian governments that consider even the Minimum Rules to be unacceptable?

The weakness of the U.N. documents is undoubtedly to be explained by the participation of government representatives in U.N. activities. These officials try to produce international documents that will help further the interests of their powers. An objective solution to the question of humanness is possible only if man is viewed above all as an individual, not merely as a subject of a given state. It is most likely that such a view will be embraced by nongovernment organizations.

Despite the fact that both the Declaration and the Minimum Rules were endorsed by the United Nations, the authorization of torture of prisoners stipulated in these documents should be seen as a disgrace to present-day civilization. We cannot limit the concept of torture merely to needles stuck under fingernails or the extraction of sound teeth without anaesthesia.

We must speak out against torture and against laws which allow the warder to torture without pangs of conscience and which deprive the victim of the right of compassion. I suggest the topic of torture be taken up for discussion by people from a wide variety of disciplines including medicine, philosophy, ethics, and the like. The press all over the world should report the discussion. By common effort, a definition of torture needs to be agreed upon that is in keeping with today's level of civilization and that yields a solid foundation on which to base a strategy to fight this heinous practice.

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REFERENCES

1. "The United Nations Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment," adopted 9 December 1975.
2. "Standard Minimum Rules for the Treatment of Prisoners," adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 30 August 1955; approved by the United Nations Economic and Social Council, 31 July 1957.

Disparate Costs of Risk Avoidance

It has been estimated that on average one death from cervical cancer can be prevented by spending \$25,000 for education and screening (1) and that accidental deaths can be prevented at an average cost of \$40,000 by installing smoke detectors (2). Many other examples could be given of ways in