

Torture



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Torture is one of the most barbaric acts of state repression, and it constitutes a direct and deliberate attack on the core of the human personality. Like slavery, it is an expression of the almost unlimited power of one individual over another. In the case of slavery, the human being is degraded to the condition of a non-human object deprived of legal personality. Torture aims to destroy human dignity and reduce the victim to the status of a passive tool in the hands of the torturer.

In ancient and medieval times in Europe, torture was employed to aggravate criminal punishments, usually the death penalty, and to extort confessions. Its use was an officially accepted and legally regulated aspect of the criminal justice system.

Torture was officially abolished in all European countries between 1750 and the 1830. Like the abolition of slavery, its suppression was the fruit of the humanism and rationalism of the Enlightenment. Although torture continued to be applied behind prison walls, there were comparably few allegations so its systematic use in the late nineteenth and early twentieth centuries.

Whereas slavery and the slave trade were explicitly prohibited by a number of bilateral and multilateral treaties culminating in the 1926 Slavery convention, torture was so much regarded as a phenomenon of the past that neither international human rights law nor even most domestic bills of rights of this period contained explicit prohibitions.

Torture and other forms of cruel, inhuman and degrading treatment or punishment are prohibited in various international treaties and agreements generally considered to have the force of law, among them the Geneva Conventions of 1949, the International Covenant on Civil and Political Rights

of 1966 (CCPR), the 1984 UN Convention against Torture (CAT), the 1950 European Convention on Human Rights, the American Convention on Human Rights of 1969, and the African Charter on Human and Peoples Rights of 1981. In addition article 5 of the Universal Declaration of Human Rights of 1948 is generally regarded as part of customary international law. The Vienna Declaration and Programme again confirmed in the strongest terms that freedom from torture is a right that must be protected under all circumstances.

Despite this impressive evidence regarding the universality of the right of freedom questions are asked if whether this universal standard can be applied equally to all political systems, religious and cultural groups. The government of certain states claim that amputations and similar forms of corporal punishment provided for by Islamic law do not contravene the right of torture. While feminist groups around the world denounce female genital mutilation, many Africans view the practice as an expression of their traditional culture. In defining torture and other forms of inhuman treatment or punishment, one therefore has to strike universal minimum standards and the requirement to take political, social, religious and cultural particularities into account. This can only be done on a case-by-case basis by the competent international bodies.

Torture and ill-treatment are prohibited by the South Korean Constitution and other domestic laws and since the late 1980s, the South Korean authorities have taken some steps to prevent its occurrence. Generally political prisoners now have access to their lawyers earlier; a small number of police officers have been prosecuted and tried for torturing detainees; and <https://assignbuster.com/torture/>

there have been cases in which the courts have ruled that confessions obtained under duress during interrogation were inadmissible as evidence at trial. But in practice the legislative, administrative, judicial and other measures in place have not been effective in preventing it. Changes are urgently needed in practices related to pre-trial detention, training of law enforcement officers and in the traditionally heavy reliance by police and judicial officials on confessions obtained during interrogation. There needs to be a more effective system for investigating complaints and reports of torture and ill-treatment !

and for compensating victims. The South Korean Government should make a declaration under Article 22 of the Convention against Torture, recognizing the competence of the Committee against Torture to receive individual complaints.

Actions aimed at militating against torture needs to be conducted on two levels: (a) eradicating torture in the long term and (b) preventing of torture in the short term. A distinction is made between eradication and prevention as they imply different levels of analysis for the complex social and political phenomenon of torture. Historical accounts of torture suggest that eradication of torture is inevitably a long-term, evolutionary process. Eradication of torture will require a careful analysis of the underlying sociopolitical, cultural, economic, and psychological factors. Reports of torture are more common from regions affected by political unrest, including mass demonstrations, riots, outbreaks of violence, killings, coup attempts, civil war, armed tribal conflict, rebellions, and conflicts with various opposition groups demanding social and political reform. While preventive

measures can help reduce or even contain the problem, complete eradication can only be possible

by eliminating the underlying causes of torture. This will require global economic, social, and political recognition of basic human freedom and rights.

What immediate measures can be taken to help prevent torture? Media works to increase public awareness of the problem is a strategy widely used, and is probably an effective instrument in combating torture. Perhaps efforts need to be stepped up to achieve greater exposure in the mass media of human rights violation. Images highlighting the horror of torture and similar atrocities should be shown more often, more quickly, and in less arbitrary manners. The Republic of Korea would like to point out the important role of individuals, groups, institutions, and nations as "bystanders" in the perpetuation of torture. Our knowledge of bystander psychology could be used to increase public concern and challenging the following common beliefs and assumptions: (1) They (the survivors) and not "one of us" so they do not deserve my attention; (2) they must have done something to deserve it. World government as bystanders play an important role in the perpetuation of torture in repressive

regimes. Clearly there is a need for greater pressure on the UN for more effective actions against countries with poor human rights records.

Care of survivors is an integral part of human rights work. In the last two decades, many care and rehabilitation centers have been built in various parts of the world. Care of survivors, however, is still a developing program and many important questions await further investigations. Care of torture survivors should involve measures to prevent the occurrence of post-

traumatic stress responses. Prevention of post-traumatic stress problems is much easier, less time consuming, and less costly than their treatment. Early intervention is important since it is easier to deal with the maladaptive coping behaviors before they become entrenched. Mental health professionals or volunteer workers can be easily trained to use this technique effectively. Groups facilitate sharing traumatic experience with others and help find a meaning for the trauma. Social support is important in the prevention and treatment of post-traumatic stress responses. Traditional societies are characteri-

zed by an extended family structure and communal environment. This potential could be explored and fully exploited in the service of survivors by forming social support groups and mobilizing other forms of community support.

Funding of projects is a problem widely experienced by human rights workers and thus deserves special attention. Financial support received by human rights organization from governmental and non-governmental agencies is limited. The UN Voluntary Fund for Torture Victims is a case in point. Since its foundation in 1981, the fund has received contributions from 40 countries and is able to spend a mere \$1.6 million on 70 projects currently in progress or planned. Calls have been made to increase international contribution to at least \$100 million by 1999.

Bibliography: