

Forum: Human Rights Council

Issue: Eliminating the use of torture in prison systems

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Introduction

According to Oxford dictionary, the term torture refers to the action or practice of inflicting severe pain or suffering on someone as a punishment or in order to force them to do or say something. The attempt on reducing the employment of torture within prison has long been a worldwide challenge. Despite the effort and being fully illegal under the international law, torture still takes place in more than ten countries. In fact, it is not just these ten countries where it takes place. Whilst peoples' awareness is sharp towards countries that permit torture in the country level, it is necessary for the international community to raise awareness upon tortures that take place in private as well.

In a world where the majority of nations advocate for the rights of ethnic and religious minorities, as well as the LGBTQ+ community, it is disheartening that such advocacy often falls short. The global community must confront the stark reality that, even in the 21st century, torture persists as a tool of oppression and intimidation. As we navigate the complex tapestry of human rights, it becomes paramount for us to collectively address the root causes of torture, fostering a world where the inherent dignity and rights of every individual are respected and protected. The challenge before us is not just to condemn torture where it is evident but to shine a light on the shadows where it still thrives, obscured from the watchful eyes of the world.

Similarly, the challenge of addressing torture transcends national borders and extends its ominous reach into the realm of international affairs. The disturbing reality is that acts of torture are not confined to regions in turmoil but persist as a global concern with far-reaching implications. In an era where interconnectedness defines our world, instances of torture have become a matter of international consequence. Just as suspicions of foreign interference have cast shadows over democratic elections in economically developed countries, the issue of torture permeates across borders, demanding a united and concerted effort from the global community. The allegations of external involvement in political affairs, such as the notorious "Russiagate" in the 2016 US Presidential elections and accusations against China in various elections, underscore the need for a collective commitment to protect the fundamental rights and dignity of individuals. The consequences of torture not only undermine the integrity of individual nations but also pose a direct threat to the collaborative fabric of the international community, making it imperative for nations worldwide to work together in fostering a world where torture has no place.

Definition of Key Terms

Abuse of Authority

The misuse of power and control by those in charge, leading to the mistreatment of prisoners.

Brutality

The state of being cruel, violent, or harsh, often referring to the treatment of prisoners.

Coercion

Coercion refers to the use of force or threats to make someone do something against their will. In prison environments, coercion can manifest as a means of maintaining control over inmates or extracting information through intimidation or manipulation.

Extrajudicial

Refers to those taken outside of the legal system or without proper legal authority. In the context of prison systems, this term may refer to illegal or abusive practices used by law enforcement or correctional officers, which bypass or violate established legal procedures.

Impunity

Refers to the exemption from punishment or accountability for wrongful actions. In prison systems, impunity can enable a culture of abuse and misconduct, as those responsible for mistreatment may evade consequences, leading to a lack of deterrence and continued harm to inmates.

Incarceration

Refers to the act of confining individuals in a prison or detention center as a form of punishment or control. It is a legal process by which individuals who have committed crimes are removed from society and placed in a designated facility for a specific period, as determined by the legal system.

Recidivism

Refers to the tendency of a convicted criminal to reoffend or relapse into criminal behavior. Poor prison conditions, including abuse and mistreatment, can contribute to higher recidivism rates by exacerbating the social and psychological issues that led to incarceration in the first place.

Sadism

Refers to a psychological disorder characterized by deriving pleasure from inflicting pain or suffering on others. In prison settings, individuals exhibiting sadistic tendencies may be more likely to engage in abusive behaviors toward inmates.

Solitary Confinement

Refers to a punitive measure that involves isolating a prisoner in a small, often windowless cell for an extended period. This practice can lead to severe psychological distress, as inmates are deprived of social interaction, natural light, and mental stimulation.

Torture

The action or practice of inflicting severe pain or suffering on someone as a punishment or in order to force them to do or say something.

Background

History of Torture

The historical origins of torture can be traced back through centuries, with its roots deeply embedded in various societies as a means of extracting information, punishing wrongdoers, or asserting dominance. In ancient civilizations, such as the Roman Empire, Greece, and Mesopotamia, torture was often employed as a method of judicial interrogation and punishment. Methods varied widely and included devices like the rack, thumbscrews, and iron maidens, each designed to inflict excruciating pain. The rationale for torture persisted for centuries, driven by the belief that it was a necessary tool to prevent irreversible miscarriages of justice. However, as societies evolved and legal systems developed, the justification for torture became increasingly untenable. The introduction of alternative penalties such as imprisonment and exile, coupled with the professionalization of law enforcement, contributed to the decline of torture as an accepted practice. Notable milestones in the abandonment of torture include Scotland's abolition in 1708 and France's in 1798, leading to a broader European trend by the 19th century. Enlightenment thought, particularly championed by criminologist Cesare Beccaria, played a pivotal role in shaping a global consciousness against the use of torture. While Europe officially abandoned torture by the 19th century, its persistence in other regions remained a challenge. The horrors of World War II, specifically the atrocities committed by the axis power, prompted a more concerted international effort against torture.

The 1948 Universal Declaration of Human Rights and the 1949 Geneva Conventions marked initial legal responses, followed by subsequent international treaties such as the International Covenant on Civil and Political Rights (ICCPR). Post-World War II instances of torture, initially seen as aberrations, gained increasing attention by the 1970s. Non-governmental organizations (NGOs) like Amnesty International played a crucial role in raising awareness and advocating for human rights. For example, the organization is publishing reports and documents highlighting cases of torture, including detailed information about specific incidents, regions, and the individuals affected. The UN General Assembly's adoption of instruments like the Declaration on the Protection of All Persons from Being Subjected to Torture in 1975 laid the foundation for global efforts to combat torture. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1984 represented a landmark culmination of these efforts. It not only prohibited torture under all circumstances but also established mechanisms for accountability, criminalization, investigation, and redress. Subsequent developments, such as the Optional

Protocol to the Convention against Torture (OPCAT) in 2002, focused on preventive measures. An example is that parties to the CAT are required to adopt domestic legislation that criminalizes torture. This ensures and enables that torture is explicitly prohibited under the national laws. Despite these legal frameworks, the eradication of torture remain challenging as it still takes place in many countries including Iran, Syria, and Afghanistan. The early 21st century saw debates surrounding the absolute prohibition of torture, especially in the aftermath of the September 11 attacks and revelations of abusive practices. Efforts by governments to justify torture faced international condemnation, highlighting the ongoing struggle to balance freedom of expression and social equality in the face of this egregious violation of human rights.

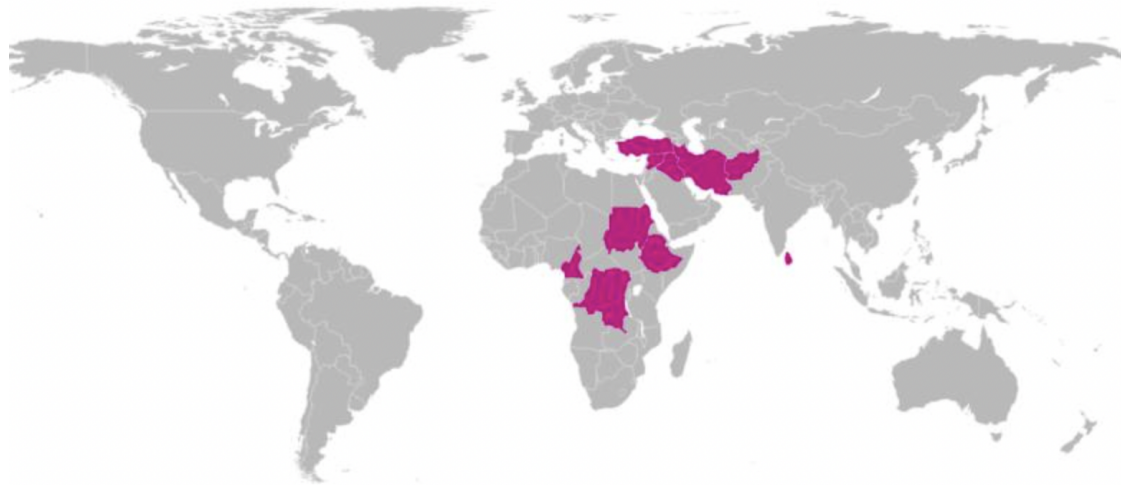


Figure 1: Most common nationalities of Freedom from Torture clients (Freedom From Torture)

Repression towards torture in Major countries

United States

The Senate has banned the use of torture across the United States in the year of 2015. This expands the law that enacted in the year of 2005, exactly ten years ago, The Detainee Treatment Act which banned the military from engaging in torture. It would also require the International Committee of the Red Cross to have access to prisoners being held by the U.S. government.

Exploring the nuanced trajectory of American torture practices and the establishment of black sites spanning the years 1898 to 2008, Ritica Ramesh, a senior at Georgetown University in Qatar, presented a meticulous examination during a CURA Focused Discussion. Her insightful analysis delves into critical historical epochs, including the Philippine-American War, Vietnam War, and the enduring Global War on Terror. This erudite inquiry scrutinizes the United States government's committed pursuit of systematically studying and refining torture methodologies throughout history, confronted by the inherent challenge of definitively characterizing torture due to its political nature and shifting historical interpretations. The narrative draws poignant connections between

American torture practices and the historical subjugation of Native Americans and African Americans. A discerning exploration of the institutionalization of torture against African Americans post the abolition of slavery in 1865 reveals a persistent historical continuum manifested in practices such as convict leasing and chain gangs. Notably, these instances of institutionalized cruelty precede the externalization of punitive measures associated with the American colonial project. Turning attention to the Philippine-American War, Ramesh's analysis discerns the importation of a punitive framework of policing and punishment, echoing domestic practices. The examination of interrogation techniques during this period, exemplified by the infamous "water cure," serves as a historical precursor to subsequent illegal practices like waterboarding. The narrative adeptly underscores the interconnected evolution of torture practices abroad and their domestic antecedents. The post-9/11 era emerges as a critical juncture in Ramesh's comprehensive analysis, marked by the covert establishment of black sites globally. Her research unveils the subsequent evolution of evasive strategies, notably the introduction of floating prisons in response to the exposure of illegal black sites. The study confronts the enduring challenge posed by torture, exacerbated by President Trump's advocacy for the reinstatement of enhanced interrogation methods, despite findings attesting to their ineffectiveness. In summation, Ramesh's discerning analysis transcends the confines of a conventional academic inquiry, providing a scholarly illumination of the intricate tapestry woven by the historical continuum of American torture and its global manifestations. The research underscores the imperative for continued scrutiny and dialogue concerning the ethical dimensions of state-sanctioned practices, within the broader context of evolving international norms and laws.

France

The Council of Europe Committee for the Prevention of Torture (CPT) has expressed serious concerns about the conditions of detention in police establishments, prison overcrowding, and psychiatric care in its latest report on France. The report highlights instances of alleged physical ill-treatment during arrests or within police premises, including deliberate beatings, insults of a racist or homophobic nature, and threats with weapons. The CPT recommends reinforcing measures against impunity and emphasizing the necessity of using force strictly when required. Additionally, concerns about the material conditions of detention in some police stations were raised. In prisons, the CPT notes ongoing overcrowding issues dating back to 1991, with occupancy rates surpassing 200% in some facilities during the December 2019 visit. Nearly 1,500 prisoners were found sleeping on mattresses on the floor. The CPT urges French authorities to implement urgent measures to provide each detainee with a bed and a minimum of 4 m² of living space in collective cells. Furthermore, a comprehensive strategy to reduce the prison population and prevent inter-prisoner violence is recommended. In the psychiatric domain, the CPT visited Cadillac Hospital, where the majority of patients felt they were treated appropriately by health care staff, although some reported instances of abusive language and excessive use of force during restraints or isolation placements. The report emphasizes the need for better staff availability and time allocation. The findings were presented alongside responses from the French Government.

The power of International law (towards torture)

One of the greatest achievements of the United Nations, International law has been imposed with the purpose of supporting order in the world and the attainment of humanity's fundamental goals of peace, prosperity, respect for human rights, and protection of the natural environment. Although the international law has been imposed with a good intention such as the attempt to completely legalize and reduce torture, the lack of coercion of the law results in certain countries completely neglecting the existence of such laws. The consequences of the violation of international law includes confronting the International Criminal Court (ICC). However even with such procedures, the problem is that certain parties completely neglect the procedure. Even after being condemned, some parties do not follow the given consequences. This is because unlike the judicial system within countries, international organizations have no obligation to make certain actions towards the person or the party that has committed the crime.

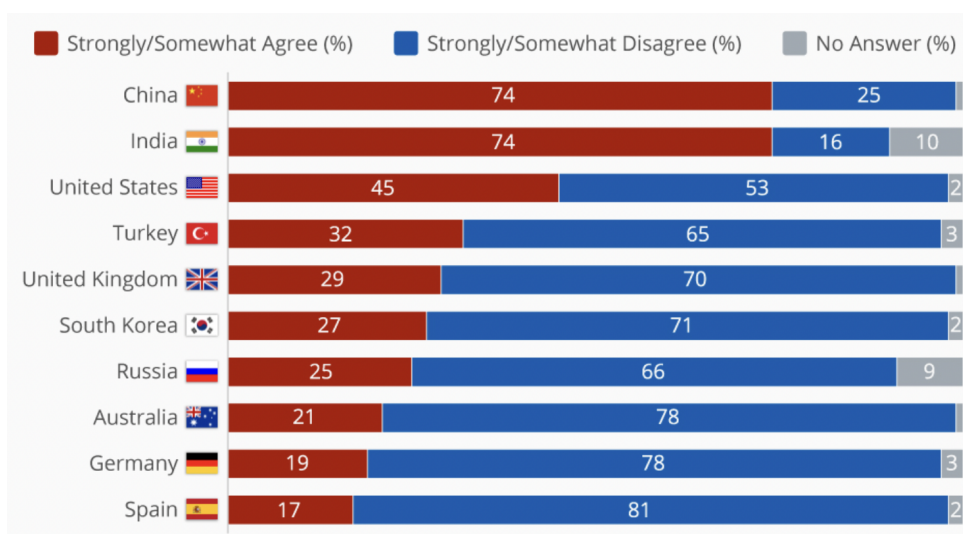


Figure 2: Agreement with the statement “torture is justified in some cases to protect the public” (Niall McCarthy)

Major Parties Involved

Amnesty International

We are campaigning for the adoption and implementation of measures to protect people from torture and bring the perpetrators to justice. These include independent checks on detention centres, monitoring of interrogations, prompt access to lawyers and courts, visits and communication with family members, and thorough and effective investigations into torture allegations.

Committee against Torture (CAT)

Body of 10 independent experts that monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by its States parties. The Committee is strongly against Torture works to hold States accountable for human rights violations, systematically investigating reports of torture in order to stop and prevent this crime.

Central Intelligence Agency (CIA)

Many people have spoken to the public on how harshly they were treated and how often they were tortured by this secret agency. While the supreme court has confronted the CIA for its use of torture many times, new reports on being tortured by CIA is incessantly taking place.

Iran

In Iran, torture and other human rights abuses are used by the government to sow fear among the population, suppress political activity, force confessions and act as punishment. Since the Cultural Revolution of 1980, torture has been used by the state to control a broad range of political, religious and social activity. Reports of torture have continued to emerge following the crackdown on the popular uprising linked to the death in police custody of Mahsa Amini in 2022.

Afghanistan

Before toppling Afghanistan's Western-backed government and seizing power in 2022, the Taliban tortured Afghans who refused their orders or refused to join their ranks. Around half of Afghan clients seen by Freedom from Torture are children or young people. Since the Taliban returned to power, reports of torture continue to emerge from Afghanistan.

Sudan

In 2019, Sudan's President of 29 years, Omar al-Bahir, was ousted and arrested. Though the former President remains detained in Sudan, he is wanted by the International Criminal Court on charges including genocide, war crimes and crimes against humanity. In 2021 a short-lived transitional government was overthrown after a military coup. Protests against the coup the following year were met with a deadly crackdown as government forces killed, forcibly disappeared and tortured protestors. Sudan remains deeply unstable and, in 2023, civilians have borne the brunt of a devastating armed conflict that has erupted between rival factions in the military government.

Turkey

Turkey's record on human rights has further worsened since the failed coup of 2016. Regular reports have emerged in recent years of Turkish border guards killing and torturing Syrians attempting to cross over into Turkey.

Syria

Since the beginning of the Syrian conflict, warring parties have continuously disregarded human rights and humanitarian law protections. Arbitrary detentions, kidnappings and torture have been

widely reported on both sides. According to the Syrian Network for Human Rights, over 15,000 people have died as a result of torture between 2011 and 2023.

Previous Attempts to Resolve the Issue

In December 1984, the international community took a significant stride towards addressing the issue of torture by establishing the Committee Against Torture (CAT) through the adoption of the United Nations Convention Against Torture. This monumental event marked the creation of a comprehensive global framework designed to prevent and address instances of torture. The CAT adoption underscored the commitment to human rights, providing a foundation for collective efforts to eradicate torture on a worldwide scale.

Preceding the CAT adoption, the Geneva Conventions of August 1949 played a pivotal role in attempting to solve the issue of torture, particularly in times of armed conflict. The Fourth Geneva Convention, adopted during this period, sought to provide protections for civilians caught in the midst of warfare while unequivocally prohibiting the use of torture. These conventions represented an early international endeavor to establish legal safeguards against the brutality of torture, emphasizing the importance of protecting individuals in the challenging context of armed conflicts.

As part of ongoing efforts to address the issue of torture, the Committee Against Torture took a significant step in November 2006 by issuing General Comment No. 2. This document provided crucial guidance on the implementation of Article 2, focusing on the prevention of torture as outlined in the CAT. The issuance of this general comment reflected a commitment to refining and reinforcing the mechanisms outlined in the Convention, demonstrating an evolving understanding of how to effectively prevent and combat torture at an international level.

In October 2015, the UN Special Rapporteur on Torture issued a report specifically concentrating on psychological torture. This report expanded the discourse on torture beyond physical harm, emphasizing the imperative of a broader understanding. By shedding light on the psychological dimensions of torture, the report underscored the need for comprehensive strategies that encompass not only physical aspects but also the mental and emotional toll of such heinous acts. This marked a nuanced approach to addressing torture, recognizing its multifaceted nature and the importance of tailored prevention measures.

Possible Solutions

One fundamental approach to eliminating the use of torture in prison involves strengthening and enforcing legal frameworks at both national and international levels. Governments must actively review and update domestic laws to unequivocally prohibit torture, aligning them with international human rights standards such as the United Nations Convention Against Torture. Additionally, mechanisms for oversight and accountability, including independent monitoring bodies and judicial reviews, should be enhanced to ensure the effective implementation of anti-torture laws.

Transparency is vital in deterring the use of torture. Establishing robust reporting mechanisms, whistleblower protections, and avenues for inmates to voice concerns without fear of retaliation can contribute to a more transparent prison system. Additionally, holding perpetrators accountable through fair and impartial investigations and prosecutions sends a strong message that torture will not be tolerated, creating a deterrent effect and fostering a culture of responsibility.

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