

STRASBOURG, 3 - 5 OCTOBER 1977

Paper by Professor Otto Triffterer for Working Group I

THE "PROHIBITION OF TORTURE" IN NATIONAL AND INTERNATIONAL LAW

- DEMAND AND REALITY

"The history of torture impressively teaches how easily mankind in the exercise of power becomes accustomed to the most base abuses and becomes deaf to the voice of justice, of humanity, of reason."

Eberhard Schmidt

INTRODUCTION

1. Historical review and present day importance of the subject.
 - a) The present manifestation of torture is decisively determined by its use against opponents of the state. This conforms to one of the historic beginnings of torture which was originally employed both in the contest for power as a means of subjugating the political opponent and also in legal interrogations. Ever since the introduction of trial by inquisition, torture, as a method of trial explicitly permitted by law, for some 500 years characterized German criminal law. It is thanks to the Enlightenment and law of nature or reason of the 18th century that the fight for the abolition of torture, "in the origin and presentation of which all negative human characteristics jointly contributed in a frightening manner", gained decisive victories. When these efforts had removed the legal basis of torture, it was thought that torture had been eliminated once and for all. Consequently, after the "elimination" of torture, no prohibition of torture was explicitly provided for in state law.

INTERNATIONAL SEMINAR ON TORTURE AND HUMAN RIGHTSSTRASBOURG, 3 - 5 OCTOBER 1977Paper by Professor Otto Triffterer for Working Group ITHE "PROHIBITION OF TORTURE" IN NATIONAL AND INTERNATIONAL LAW- DEMAND AND REALITY

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INTERNATIONAL SEMINAR ON TORTURE AND HUMAN RIGHTS TO BE HELD III
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The following is a list of representatives from Non-Governmental Organizations who will be present at the seminar:

- BARAHONA, Marco Antonio : Union Internacional de Jovenes Democratas Cristianos
- ✓ BEFORT, Dr. P.A. : World Medical Association Inc.
- BOWYER, Philip : Postal, Telegraph and Telephone International
- DELAVEAU, André : EUROFEDOP
- DEMING, Mart : International Fellowship of Reconciliation
- DRUBAY, André : International Federation of Secondary Teachers
- EPPS, Dwain : World Council of Churches
- ✓ FREUDENREICH : Fédération Autonome des Syndicats de Police
- GALLINER, Peter : International Press Institute
- GEBHARDT, S.M. : Christian Democratic World Union
- GRENE : Federation Autonome des Syndicats de Police
- GUILLEMOU, Georges : EUROFEDOP
- HECKER, Paul : EUROFEDOP
- INSAUSTI, Jesus : World Confederation of Labour
- ✓ KAMMERER, Th. : World Psychiatric Association
- KARLIKOW, Abraham : American Jewish Committee
- LACK, Daniel, : World Jewish Congress
- ✓ LIPPONEN, Paavo : Socialist International
- LEPELLETIER, Mme : European Union of Women
- MGNULTY, A.B. : British Institute of Human Rights
- MUNOS CAMPOS, Juan : International Association of Lawyers
- PEARCE, Jenny : Writers and Scholars International
- PETTITI, L : International Union of Catholic Lawyers (Pax Romana)
- PIETTE, Louis : EUROFEDOP
- ROOK, Dries : EUROFEDOP
- SESSAR-KARPP, Ellen : International Alliance of Women
- STELIERT, Robert : Union Internationale des Syndicats de Police
- TRAYLOR, Julianne : Lutheran World Federation
- WARBURG, Mrs M. : International Council of Jewish Women
- ✓ WHITAKER, Ben : Minority Rights Group
- WILTBERGER, Nicolas : Young Lawyers' International Association
- KHAN, Hussain : International University Exchange Fund
- Van Wijk, Dr Hein : War Resisters International

GOVERNMENT REPRESENTATION

The following Governments will be represented :

Austria
Cyprus
Greece
Luxembourg
Norway
Portugal
Switzerland
United States
Canada

Dr Kurt NEUDEK will represent the United Nations Crime Prevention and Criminal Justice Branch.

Mr Karel VASAK will represent UNESCO

Also attending :

Professor Georges Levasseur

Jean-Jacques Gautier

Dr Gerhardt Grebing will represent the International Association of Penal Law

London, 14 September 1977

INTERNATIONAL SEMINAR ON TORTURE AND HUMAN RIGHTS

STRASBOURG, 3 - 5 OCTOBER, 1977

OPENING PLENARY

Address to the Opening Plenary of the Strasbourg Seminar on Torture and Human Rights

by Dr Inge Kemp Genefke

I am one of a group of Danish doctors working within Amnesty International in the fight against torture. First I will tell you about the background for starting this work and how we started.

Then, I shall go on to the way in which the work has progressed. How several groups of doctors have been formed, groups working on the subject of torture in various ways, but always from a professional point of view.

Thereafter, I am going to report our preliminary result. Obviously, the results are preliminary. The work done so far is what is called by a research team pilot work.

Finally, I shall discuss the future. Of course, it is the intention that future work is to take place not only in Denmark. Attempts are already being made to set up groups like ours on an international level.

Background

All of you who are present here know the background of Amnesty International. Owing to the increasing use of torture in practically all parts of the world, Amnesty took up this problem and in 1973 formed a special section, the campaign against torture. In December 1973 a conference on torture was held in Paris, and at that conference it was decided that the numerous research parties sent out by Amnesty should include doctors. If possible, these doctors were to examine victims of torture.

This was the primary starting point of our groups. We had to find doctors who were willing to travel and examine the victims of torture.

The first group was set up in Denmark in the autumn of 1974, and the first difficulties were soon apparent. To-day torture is often performed by such refined methods, for instance by electricity or by drugs, that it does not leave traces. To be able to demonstrate torture it was necessary to set up adequate methods of examination. Here, we had to start from scratch. It was necessary also to start research with a view to disclosing torture which does not leave traces. Research aiming at disclosing torture is research into the consequences of torture. As doctors, we are naturally interested in these consequences, because by knowing about them we might be able to alleviate the consequences of torture in the individual victims.

Well, this was the background of the work and the way in which it was started.

A further reason for commencing this work was increasing awareness that certain of our colleagues, that is doctors in countries where torture is inflicted, take part in such torture in various ways. Some take direct part in it. Others are called when the tormentors fear that their victims may die, if they faint too often. Then the doctor gives the victims treatment which enables them to continue being tortured. Other doctors collaborate in the way that they examine victims before they are to be exposed to torture in order to let the tormentors know how much torture each victim can stand.

Of course, this knowledge about our colleagues' collaboration in torture was included in our motivation for working on torture. Only persons having the same professional background are able to disclose the torture and to fight it.

How the Work Has Progressed - the Various Medical Groups

The doctors who assembled first soon formed groups among themselves. From the very start, it was realized that the subjects relevant to doctors' work on torture differed. The first group to be formed, and which is still considered the central group, is the so-called travelling group. At present it consists of 14 doctors. Its members are ready to travel to any part of the world to examine the victims of torture. To enable doctors to do so, it was obvious that detailed knowledge about torture methods had to be compiled, and we had to work out methods of examination for disclosing any phenomenon that could be related to the infliction of torture.

Therefore, the doctors of the travelling group started examining victims who had been subjected to torture. So far, we have examined more than 70 such victims, the majority from Chile and Greece. These examinations have been done systematically. On all occasions, two doctors have been present at each examination; there is also an interpreter, of course, often a doctor himself. The systematic examination includes a long medical interview, followed by a medical and neurological examination. The medical interview contains questions about diseases prior to the torture, social conditions, the forms of torture to which the victim has been subjected,

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the immediate symptoms after the torture, subsequent symptoms, and the symptoms at the time of the examination. The essential thing is that to our knowledge this is the first time that doctors have made systematic examinations of the victims of torture. This has required setting up special examination forms. I want to show you some of our results. They are contained in the Amnesty publication which you have received already.

By thus examining the victims of torture, the travelling group has accumulated knowledge about torture and its consequences. This knowledge has already been utilized in practice, but we shall revert to that later. At present, let us merely establish that now we have a group of doctors with an accurate knowledge of practically all the methods of torture in use today, the way in which they are practised, the reactions of the victims, and the manifestations of symptoms.

In addition to the travelling group, there are a number of research groups. These groups make a special study of the individual forms of torture. One of these groups is the dermatological group. Its object is, of course at long sight, to reveal whether a victim has been subjected to electrical torture. The group is investigating the consequences of electricity in the skin. It is hoped that in the future we shall get so far that one small skin biopsy can demonstrate that a victim has been subjected to electrical torture.

Another group is the phalanga group which deals, of course, with the form of torture known as phalanga (beating the soles of the feet). This group was formed after the travelling group had found many incidents of this form of torture among the Greeks. The consequences were complaints of pain in the feet (subjective consequences) and demonstrable functional changes in the victims' feet (objective changes). This research group deals with the changes which may have taken place in the functional state of the victims' feet and possible ways of alleviating these consequences.

To explain some of our difficulties, I will show you a slide demonstrating some of our reflexions over factors decisive to phalanga.

Another research group is one which we call torture and children. It was recently started and it concerns itself with children whose parents have been tortured. The children are examined with a view to what damage their parents' situation has done to them.

Among other research groups there is reason to mention a pharmacological group able to study very small quantities of drugs in blood, saliva and urine.

A neurophysiological group has studied reactions to pain after various forms of painful stimuli.

An endocrinological group is studying hormonal changes following torture.

A dental group has just been started to deal with acute and later damage following torture relating to the teeth.

Our forensic medical group is also a new one. In the opinion of Amnesty doctors torture involves many medicolegal problems. The task of this group

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is to investigate whether objective signs can be demonstrated on the dead bodies of tortured persons from photos, from certificates and statements. In cases where the victims have died during torture there is also the question of how the death certificate is made out. Who has issued it? What is its legal basis?

Apart from the groups already mentioned there is also a psychiatric group working particularly on ethical problems concerning forced admissions, forced treatment, psychotropic drugs, uniform rules for diagnosis that can form the basis of forced admissions and forced treatment.

The last group to be mentioned is the letter-writing group which comprises about 100 doctors. This is a group which, according to Amnesty traditions, writes letters with medical relevance. For instance, when colleagues are exposed to torture, or when information is received that prisoners are not getting their vital medicine, for instance insulin or digitalis. This group deals with everything of medical relevance in regard to prisoners.

As has already been said, the travelling group is the central one, the first group to be formed. It has been the starting point of all the other groups which deal with torture within special fields from a professional medical point of view. Such special fields of course vary, being in some cases phalanga, in others electrical torture, in others again children and torture, or dental torture. Many other possibilities are still open - I am sorry to say.

This was the progress made within the medical groups, those which have been formed so far.

Results

Our primary object was to be able to travel in order to examine the victims of torture. This object has been fulfilled. We now possess special knowledge about methods of torture, the torturers' technique, the way of questioning the victims of torture, and the ways of examining its consequences. We have systematically collected knowledge of all these factors.

In addition to this primary object, we have attained a second result. There is now a scientific publication, a report on the examination of 67 victims of torture. This is the first time such a report has been made and published in a scientific journal: Danish Medical Journal. These results are also presented in an AI publication: Evidence of torture, which is or will be translated into Dutch, Spanish and French. In this work we have shown that a great majority of the victims suffered from consequences of the torture; they were indeed ill people. The study indicates the necessity of further research to elucidate specific consequences of special methods of torture. If such research can be started it may enable us to tell with certainty, at some future time, which form of torture a victim has suffered, even so refined torture as electrical torture which does not leave traces.

As a result of the investigation of the 67 prisoners we have formed some of the groups mentioned to deal with special consequences of torture. It is evident that it was the examination of the 67 prisoners which enabled

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us to set up professional medical research projects, all of which have the same aims: to be able to disclose torture, to investigate its consequences, and - we hope - to alleviate these consequences.

As a fourth result of our work we would like to mention that our knowledge has been utilized in practice on travels. In addition to Greece, we have gone to South Korea. As is apparent from one of the other scientific papers published, we have examined young people subjected to torture in Uruguay as well as in Argentina. We have travelled to other countries where we have examined victims, and we are planning further travels.

The Future

Our primary object is to make doctors in other countries regard torture consequences as a disease. Torture consequences is a disease which ought to concern doctors like any other disease. Our purpose is to try to create medical groups in all countries that counteract the disease torture. The result of our work will depend upon whether it is possible to form medical groups according to our pattern in other countries.

Therefore, we have formed an Amnesty Medical Advisory Board in direct connection with the Executive Committee. The main task of the doctors on this Board is to set up medical groups on an international level according to the Danish model.

In addition to the purely professional work, we want to supply information about torture, take part in the maintenance and spread of an international opinion against torture. We want to take part in a collegiate assessment of doctors who use their professional knowledge to assist tormentors. Last, but not least, we want the medical profession to understand the problem, that it is a collective problem to all doctors and one which the medical profession must start tackling because the consequence of torture is a disease. "There is a need for sponsored research into the whole field of torture, including forensic study, the training of torturers, the detection of torture sequelae, and, ultimately, the provision of improved medical care for torture victims. It will be necessary for universities and medical foundations to sponsor such research. Governments that oppose torture must likewise lend moral and financial support. This field of medical research can and should be international, with shared resources and results.