Torture: A Crime against Humanity

Inam ul Haq

Abstract
The term torture is a generic concept and can be defined, debated and deliberated under various conditions, in diverse contexts and claims. There is no consensus among the scholars, practitioners about the meaning of the term. It has been used as an investigative technique inflicted on a third person for the purpose of extracting information or confession. According to the United Nations Convention on 10 December 1984, Torture means any kind of act which causes severe pain or sufferings whether physical or mental and is intentionally inflicted on a person for such purposes obtaining information or a confession. This definition does not include “pain or suffering arising only from inherent in or incidental to lawful sanctions. Torture has been used less against citizens, however, more often against the people who are not the members of society like slaves, foreigners, prisoners of war and members of racial, ethnic and religious outsider groups. However, in the twentieth century, the rises of liberal democratic states have caused a decrease in the practice of state torture against citizens. Increase in torture can be attributed to three developments in the Twentieth century. This paper highlights the use of torture in a democratic country like India.

Keywords: Definitions, Torture, Coding of Torture, Conventions against Torture

Introduction
Torture can be defined as afflicting pains through the use of hot iron rods, electric shocks to genitals, removing fingernails, denying food, water or sleep for days or weeks. Torture is a kind of act to break individual’s will and has control over the victim’s body. Intention is a necessary condition for an act to be called as torture. The International Committee of Red Cross defines torture as existence of a specific purpose plus international infliction of severe suffering or pain, cruel or inhuman treatment for no specific purpose. The world medical association 1975 defines torture as the deliberate, systematic or infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information (Jeremy 2010).

According to United Nations convention10 December 1984, torture means any kind of act which causes serve pain or sufferings whether physical or mental is intentionally inflicted on a person for such purposes obtaining information or a confession. This definition does not include “pain or suffering arising only from inherent in or incidental to lawful sanctions” (White 2009: Garcia 2009). During the earlier period torture has been used less against citizens, however more often against the people who are not the members of society like slaves, foreigners, prisoners of war and members of racial, ethnic and religious outsider group. However in twentieth century, the rises of liberal democratic states have caused a decrease in the practice of state torture against citizens. Increase in torture can be attributed to three developments in the twentieth century (a) changes in quality, intensity and nature of military conduct that led to an increase of torture against the prisoners of war. (b) the prevalence of civil conflicts in state divided along racial,
ethnic and religious lines increased torture. (c) changes in the nature have brought about an expanded definition of treason and states have also become more effective? (Einolf 2007).

Torture is a crime as it corrupts moral understanding of those nations who are practicing it and tends to radicalize the hearts and minds of communities to which the victim belongs. Studies have proven that State sponsored torture serves as a powerful tool for terroristic groups across the world and undermines counter-terrorism efforts (ibid, 2009). It is noteworthy, that terrorists and torturers shared a common objective that is to create fear. The question is why torture is wrong? Torture is considered a crime against humanity and is prohibited in an extensive range of human rights convention as according to the article 5 of the universal declaration of human rights (1948) declares that no one should be subjected to torture or to cruel, inhuman or degrading treatment of punishment. Common article of Geneva Convention (1949) prohibits violence to life and person in particular, cruel treatment and torture and outrages upon personal dignity. Torture is also prohibited by European convention on Human Rights (1950), the African Charter on Human and People’s Rights (1969), the Inter-American convention to prevent and punish Torture (1985), International Convention on Civil and Political Rights (1976), and Genocide Convention (1948) (Miller, 2009), perhaps the notable international agreement that prohibits the use of torture is the united nations convention against torture and other cruel inhuman or degrading treatment or punishment, which obligates the use of torture and requires the punishment of torturers found within their territorial jurisdiction. And comes for signature in December 1984 and 140 states have signed the convention Garcia, 2009). According to United Nations convention, torture means any kind of act which causes severe pain or sufferings whether physical or mental is intentionally inflicted on a person for such purposes obtaining information or a confession. This definition does not include “pain or suffering arising only from inherent in or incidental to lawful sanctions” (white, 2009, Garcia, 2009)). International covenant on civil and political rights (1996) states in article 7 that “no one shall be subjected to torture and other cruel, inhuman or degrading punishment (Lee, 2007).Torture is of so many types like judicial, punitive, interrogational, dehumanizing, and terroristic. The interrogation practices employed upon by torturers are waterboarding, beating, electrocuting, burning and forcing sexual acts etc. The above mentioned United Nations convention identifies four reasons of torture.

- To obtain information
- To obtain a confession
- To punish
- To force the sufferer or others to act in certain ways (miller, 2009).

**Torture in India**

India is considered as world’s largest democracy. Still torture remains an embedded and often routine-law. In the name of investigation crimes, extracting information and punishing criminals, torture is inflicted upon them. According to national project on preventing torture in India (NPPTIs 2008) 1.8 million people fall victim to police torture. Each year in India the most vulnerable section of the society particularly Dalit women’s, religious minorities and poor are targeted (torture and impunity in India 2008). Since 2000, according to statistics submitted to the Parliament by Ministry of Home Affairs, prison custody deaths increased by 54.02% by 2008. While police custody deaths increased by 19.88%.
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<table>
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<tr>
<th>Year</th>
<th>Number of deaths</th>
<th>Percentage of increase</th>
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<tr>
<td>2000-2001</td>
<td>910</td>
<td></td>
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<tr>
<td>2001-2002</td>
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<tr>
<td>2002-2003</td>
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<td>2003-2004</td>
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<tr>
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<tr>
<td>2006-2007</td>
<td>1477</td>
<td>62.31%</td>
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<tr>
<td>2007-2008</td>
<td>1789</td>
<td>96.59%</td>
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<tr>
<td>Over all</td>
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<td>54.92%</td>
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</tbody>
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Torture in India, Asian Center for Human Rights Report

**Coding of Torture**

- By coding torture fell into six categories.
- Focus on intent, motivation or emotion
- Characteristics of the individual being tortured
- Conditions that gives rise to torture
- Judgments
- Focus on method
- Focus on outcome (Morrison, et al, 2009 pg. no, 6).

**Definition of torture focus on intent, motivation or emotion**

By explaining victims falling in the category of intent, motivation or emotion refers to the result of torture, answering the question why people torture. Their response is to show openly the reasons of torture rather than the methods behind torture. This category has split in two large sub categories showing different kinds of intents (a) Destructive (b) Constructive. The purpose of torture as creating a destructive outcome describes two goals of torture

- To pressure or break a person.
- To cause pain.

It also describes torture as deliberate or willful and this indicates that torture is done for pleasure of the torturer imply sadism. The constructive intend defined torture as to gain something without indicating whether this goal is good or bad and identifies four goals like information, strategic advantages, self-gain and punishment. These four goals also define torture in their own way like the responses falling into information or compliance identifies torture as a way of extracting information or the victim should submit to the will of torturer. The victims that fall in the strategic advantages viewed torture as a tool of power or political interest. Self-gain indicates that there might be some goals when they use torture however they were not specific. Finally the victims coded into punishment viewed torture as a tool of punishment.
Definition of torture focusing on the victim
This category defines torture as the process used for responding to the conditions under which torture becomes implemented and focuses on attributes of victims such as helpless or powerless and unwilling and held against their will.

Judgmental definition
Judgmental category indicates how the respondent feels about torture or his views of its morality, justice or humanity. Under this category it is unclear whether the victim tolerated or rejected torture. In response to rejecting torture five types of justifications were coded into further sub categories. Those identify torture as
- Un necessary
- Unlawful or unjust
- Immoral, inhuman, abusive
- Sadistic
- As a violation of human rights.

Definition of torture focusing on method and on outcome
These definitions focused on the method used to torture someone. It is used to get information and laid focus on hurting and harming which had sub categories (a) physical (b) psychological or abstract method.it also defines the outcomes of torture in a long perspective describing what happens after torture has occurred. (ibid2009).

Conclusion
In short torture is a crime and has been criticized by various international organizations, like United Nations Conventions, Inter-American Charter of Civil and Political Rights. Torture corrupts moral understanding. However torture may be justifiable in many ways like in time-bomb argument, robbery cases etc. Torture is prevalent in the whole world; however some countries are doing it in secret while others are doing it openly. In India torture is most probably done against the poor and against the women folk.

Bibliography