

BOOK REVIEW

Torture: An Expert's Confrontation with an Everyday Evil, by Manfred Nowak.

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Hans Draminsky Petersen*

Manfred Nowak, the author of this book, is an expert with outstanding experience in the fight against torture. Among many international commitments, he was the UN Special Rapporteur on Torture (SRT) for six years from 2004 and the book is predominately based on this experience. Nowak aims to make the unfathomable more comprehensible and to clarify the causes and dynamics of the routine nature of torture; to enhance empathy for the forgotten detainees; and to point to ways of preventing torture. Putting existing knowledge into practice will, however, only work if enough people become outraged and place moral and political pressure on authorities to end torture.

The book consists of two parts: “Phenomenon of torture in the twenty-first century” (part one) and “Torture in individual states” (part two), based on the

author's visits in his capacity as SRT. Many of the reflections in part one are also based on observations from his country visits and it describes contemporary torture and its purpose; it explains how the UN system works—and why it sometimes does not work—and the role, mandate and working methods of the SRT.

The SRT visits countries after being invited and the mandate provides the SRT with access to all closed institutions, and to interview all relevant persons in private. After a visit of one to two weeks, the SRT debriefs with authorities and publishes a report with observations and recommendations for changes.

Ideally, an SRT visit should be viewed as the expert consultant's cooperation with the authorities to prevent torture and ill-treatment. Nowak, however, is outspoken and unafraid of pointing to the United States' war on terror as being detrimental for human rights in general, blaming states for blatant human rights violations in country reports (e.g., Jordan), or requesting criminal charges against high ranking individuals for their responsibility in torture. This must have yielded numerous enemies, possibly explaining the many obstructions to his work. The outcome was not always satisfactory. In the case of Jordan, for example, only the torturers (not their superiors) were punished—not for torture, but for disobedience.

His approach is, nonetheless, commendable and it is necessary for experts to express their knowledge and what international law stipulates, regardless of whether this is agreeable to national or politicised international contexts. Ultimately, he has raised awareness and thereby contributed to a realistic basis for further discussions on how to prevent torture and punish torturers.

*) Former member and vice-chair of the UN Subcommittee on Prevention of Torture (SPT).

Correspondence to: hdp@dadlnet.dk

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His observations help to illuminate how the international community works; e.g., his report on Equatorial Guinea describes how horrendous conditions in detention and widespread torture did not lead to condemnation of the country in the UN Human Rights Council. According to the author, this is because African countries protect each other against UN criticism. Moreover, many examples are given of states attempting to impede the SRT's objective investigations—including last-minute changes to visiting dates, impediments to accessing places of detention and privacy when interviewing detainees, and threats to team members by police officers.

The chapter entitled *Are fact-finding missions dangerous?* provokes the reader to contemplate investigators' risk of being assaulted by violent prisoners. However, neither he nor his team members have ever been attacked by detainees, but they have been threatened by staff in places of detention. Nowak also emphasises the issue of the SRT's lack of control over authorities' reprisals against detainees who have cooperated with the SRT.¹

Nowak considers his mandate to encompass violence in homes and schools and female genital mutilation (FGM). In light of the general progressive shift in public opinion on violence in homes and schools in many countries over the past 30 years, he finds hope for a similar development in torture.

Corporal punishment exists in some countries, some of which refer to the Sharia and argue that Article 1 in the UN

Convention against Torture excludes pain and suffering arising from lawful sanctions from falling under the definition of torture. The author argues that taking this argument literally would undermine the intentions of the convention; states would only have to put their illegal practices into national law. One could view this in the same light as the Bush Administration's attempts to manipulate international law through the introduction of new concepts, such as taking "illegal enemy combatants" and "renditions" to secret places where torture can exist unnoticed. In 2010, three years after the UN convention on protection from enforced disappearances came into force, 66 countries used secret detentions in the fight against terrorism.

Capital punishment is an extreme form of corporal punishment and Nowak views the abolishment of capital punishment in a large number of the world's countries as a major achievement for human rights in general, and one that elicits hope for its total abolishment along with the eradication of torture.

Contemporary torture is explored and the issues of obtaining a confession, information or intelligence are dealt with. Obtaining a confession by way of torture is a shortcut to "solving" crimes, particularly when the investigating police authority is incompetent. "A little torture" is useful to make suspects "tell the truth", as expressed by a police officer in Nepal. The fundament being that confessions are accepted as the only evidence in courts; however, intelligence obtained through torture is very rarely valid or useful.

Nowak also considers how prison walls keep the public at bay and limits information regarding extreme overcrowding, lack of hygiene and meaningful daily activities, corruption, exploitation, and violence from reaching

¹ Corruption in the justice system is frequently mentioned and the author calls torture and imprisonment "the privilege of the poor", but the issue is not analysed in depth.

them. Therefore, the public awareness needed to foster the necessary moral outrage and political pressure to facilitate a conceptual development of the justice systems, from progressive retribution to re-socialisation, is suppressed. The eradication of torture requires a general commitment of governments to materialise, *inter alia*, by opening the walls of prisons to transparent and public scrutiny.

Detention in extremely overcrowded prisons and police detentions for extended periods are particularly relevant issues that the author has witnessed; in extreme cases (e.g., Nepal) the detainees in a cell had to sleep in shifts on the concrete floor because there was insufficient room for everyone to lie down at the same time. One contributing reason for this is a slow-acting judiciary. Persons accused of minor crimes often stay longer in pre-trial detention than is prescribed in law as the maximum sentence. Clearly, this could be remedied without allocation of large funding.

Part two analyses states' approaches to prevention of torture in 19 countries, predominately based on information from SRT visits. Most countries were characterised by horrific conditions in places of detention and widespread torture and ill-treatment. During some visits, particularly noteworthy observations were made:

- In Georgia, a new government led by Saakashvili appointed independent commissions to inspect places of detention. The police department was reformed, and corruption and the prevalence of torture significantly reduced.²

² A follow-up visit revealed that the prison population had grown by a factor of three during six years. There was a 0.01 percent acquittal rate in criminal cases and four-fifths of cases were settled

- With a population of 6 million and inhabitants from 800 different ethnic groups, Papua New Guinea had 1,200 poorly trained and, in general, brutal police officers while private security companies had well-trained and -equipped personnel. One British-based company alone had 4,800 staff. A serious challenge are the clashes between multinational oil and mining companies and violent demonstrators, which are contained with brutality by police officers and private security companies operating outside of the state's control.³
- Denmark is heralded as a country where the government's will to abolish torture has been efficient. Detainees are regarded as clients in a system of normalisation, and life in prisons is made as similar as possible to life outside with the objective of reintegrating prisoners into society after they have served their sentences.⁴

The author concludes that the means to prevent torture exist which include the right of a detainee to have a lawyer and a medical examination, to be heard by an

through plea-bargaining. This incentivised those accused to confess regardless of whether they had committed the crime, as this would be more favourable in terms of sentence length. This mechanism renders the use of torture unnecessary to obtain a confession or "to solve the crime".

³ Another challenge are the clashes between widely used customary or traditional justice and modern human rights based justice, which, partly because of understaffing, cannot interfere in all traditionally treated cases. The author comments that, at least, the state should not accept that traditional justice leads to torture and lynching.

⁴ However, Nowak did not engage with two controversial issues: Denmark's widespread use of lengthy isolation in pre-trial detention, and the country's possible role in US renditions by letting CIA flights use Greenlandic airspace and airports.

independent court within 48 hours, and to not be returned to police custody after the court hearing. Raising awareness about the conditions in places of detention and a genuine political will to abolish torture, e.g., through visits by the mechanism under the Optional Protocol to the Convention against Torture (OPCAT), are requirements. Complaints and indications of torture must be investigated by independent bodies. Courts must be proactive in referring detainees who might have been tortured to expert medical examinations. A tough prison system, building on the philosophy that criminals must suffer like their victims, leads to a violent prison system that will make society more violent and will lead to public endorsement of torture in the fight against crime. The United States, with the world's highest number of imprisoned persons per 100,000 inhabitants, is mentioned as a negative example.

All measures to eradicate torture are already in international law and most do not require large funding. A shift in the criminal justice system from revenge and retribution to rehabilitation and reinsertion into society cannot be expected overnight. However, Nowak is optimistic; corporal punishment and the death penalty are regarded as unacceptable in most countries today and the same can be achieved for torture.

The author is a fine storyteller. The many anecdotes from his enormous experiences are reflected upon, analysed, and put into a wider context, leading to well-founded conclusions. There is a lot to be learned from this book. It is recommended to all who are interested in the promotion of human rights and, in particular, those who work for the prevention of torture and ill-treatment in places of detention.

Torture and Its Definition in International Law—An Interdisciplinary Approach, by Metin Başoğlu.

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Alejandro Moreno, MBBS, MPH, JD, FACP.*

Torture and Its Definition in International Law—An Interdisciplinary Approach was edited by Metin Başoğlu, and written by him and another sixteen experts in the medico-legal aspects of torture and cruel, inhuman, or degrading treatment or punishment (CIDT/P).¹ The book has 506 pages and 16 chapters, which are organised into four parts: “Behavioral Science Perspectives”; “International Law Perspectives”; “Enhanced Interrogation Techniques: Definitional Issues”; and “Discussion and Conclusions”. The book is for health, legal and human rights professionals, beyond just those just working with victims of torture

*) Associate Professor of Medicine and Medical Education, Assistant Dean for Clinical Skills Integration, and Director of the Developing Outstanding Clinical Skills Course, University of Texas at Austin Dell Medical School

Correspondence to:

alejandro.moreno@austin.utexas.edu

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