

American Psychological Association 2006 Resolution

Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Justification Statement

1. Purpose and Rationale

The purpose of this resolution is to clarify and update the American Psychological Association 1986 Human Rights Resolution on torture and cruel, inhuman, or degrading treatment or punishment that was affirmed by the Council of Representatives in August 2005. The American Psychological Association 1986 Human Rights Resolution is not identified by name as a resolution against torture, though torture is that resolution's sole focus. (See Council Policy Manual: P International Affairs, III. Human Rights.) This proposed resolution clearly names torture as its main focus and incorporates specific language from the international standards referenced, including two recent United Nations (UN) documents. Furthermore, the resolution delineates the implications of the American Psychological Association's (APA's) position against torture for the roles and responsibilities of psychologists: psychologists do not participate in or tolerate torture or other cruel, inhuman, or degrading treatment or punishment. The resolution, together with this justification statement that includes a summary of recent scientific literature is intended to provide psychologists and the public with a current, relevant policy statement on torture.

The APA's 1986 resolution on torture and cruel, inhuman, or degrading treatment or punishment is integral to the broad framework of APA's positions and actions that affirm human rights. The most general of these is the 1987 Human Rights Resolution, which states,

[T]hat the discipline of psychology, and the academic and professional activities as psychologists, are relevant for securing and maintaining human rights. That it therefore be resolved that APA applauds the ongoing efforts of the United Nations to defend and promote human rights and undertakes to commend the main UN human rights instruments and documents to the attention of its boards, committees, and membership at large.

More specific resolutions include endorsements of the UN Convention on the Rights of the Child (1989); the Seville Statement on Violence (1987); Racism and Racial Discrimination (2001); and the Resolutions on Sexual Orientation (e.g. 1997, 1998, & 2000). From a historical perspective, the American Psychological Association 1986 Human Rights Resolution against torture and cruel, inhuman, or degrading treatment or punishment informs and strengthens these other resolutions, which document and address the vulnerability of populations that are denied fundamental rights.

Although available for 20 years, until very recently the American Psychological Association 1986 Human Rights Resolution has not had a major policy impact. At the time that the photos and other evidence of torture from Abu Ghraib came to light, few remembered that APA had already taken a stand that could have been widely publicized: "that the American Psychological

Association condemns torture wherever it occurs...” At the time allegations first were made that psychologists were involved (indirectly or directly) in torture at Guantanamo Bay, APA did not publicize that it had a resolution of long standing that not only condemned torture but supported the United Nations Declaration and Convention Against Torture, the United Nations Principles of Medical Ethics, and the U.S. Congressional Resolution opposing torture, which President Reagan signed on October 4, 1984.

The proposed American Psychological Association 2006 Resolution Against Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment is clearly named so that it can be easily identified and widely publicized. It is a clear statement of APA’s position against torture and other cruel, inhuman, or degrading treatment and punishment and APA’s prohibition of psychologists’ involvement in participating in or tolerating such behavior. The resolution goes beyond the 1986 resolution in incorporating language directly from the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment as well as the United Nations Principles of Medical Ethics.

In addition, the proposed APA 2006 Resolution updates the resolution from two decades ago by the inclusion of two recent UN documents related to torture: (1) Basic Principles for the Treatment of Prisoners (1990); and (2) Principles on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (2000). The Resolution reflects the empirical literature regarding the occurrence of torture, the ways in which psychological knowledge has been used to design and carry out torture, the psychological effects of torture, as well as psychologists’ contributions to finding effective treatments for victims of torture, cruel, inhuman, and degrading treatment or punishment.

2. Importance to Psychology and to Society as a Whole

As clearly indicated in the 1987 APA Council Resolution cited above, the promotion of human rights is consonant with the aims and practices of the discipline of psychology. Indeed, all members of the APA have important contributions to make to the individuals and groups with whom they work, and to society when abiding by the “Ethical Principles of Psychologists and Code of Conduct” (APA, 2002). The APA “Ethical Principles of Psychologists and Code of Conduct” (adopted August 21, 2002, effective June 1, 2003) commits American Psychologists to “respect and protect civil and human rights” (and) “the dignity and worth of all people.” In fact, APA has a strong legacy of resolutions and actions on specific issues in compliance with UN declarations, conventions, and other instruments on human rights (Rosenzweig, 1988).

Furthermore, since 2000, APA has been accredited as a non-governmental organization (NGO) at the UN. Under the guidelines for NGO participation, APA shares with other accredited NGOs a commitment to the Charter of the UN, to the Universal Declaration of Human Rights, and to contribute its expertise and resources to the implementation of the various human rights declarations, conventions, and other standards of the UN.

The proposed resolution is linked to two of APA’s priorities as identified by the Council of Representatives in August 2005: According to Priority 6, APA seeks to promote the discipline’s capacity to address societal behavioral problems. The proposed resolution to update the

American Psychological Association 1986 Human Rights Resolution on torture and cruel, inhuman, or degrading treatment or punishment will strengthen and clarify APA's commitment to the relevant human rights principles of the UN on torture and provide standards for psychological practice. Also according to Priority 10, APA promotes human welfare through social justice research, practice, policy, and/or education. The proposed resolution connects the work of practitioners with victims of torture to discipline-based and UN standards. It will also serve as the basis for APA public policy statements and actions on societal issues related to torture.

By integrating the proposed resolution along with other APA human rights resolutions into psychological education at all levels, current and future psychologists can be made more aware of human rights standards in their role as psychologists.

3. Representative Scientific or Empirical Findings Related to the Resolution

Introduction

In 1948, the United Nations General Assembly adopted the *Universal Declaration of Human Rights*. Article V of the Declaration states, "No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment." This international condemnation of torture and other forms of gross maltreatment was further supported, expanded, and clarified by the adoption of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment by the General Assembly in 1984. Unfortunately, despite such international efforts, torture remains a significant problem within the global human rights arena.

In terms of scope, between 1997 and 2000, Amnesty International recorded complaints of torture and other cruel, inhuman, or degrading treatment or punishment by agents of the state from over 140 countries (Amnesty International, 2000). More conservative estimates implicated over 100 countries in the systematic practice of torture and other forms of gross maltreatment (Genefke, 2004). Human Rights Watch (2006) further reported an increase in the use of torture within many countries such as China, Myanmar, Morocco, Nepal, Uganda, and Uzbekistan.

The Center for Victims of Torture (2001) estimated that, at minimum, a half million survivors of torture are living in the United States with between 5% and 35% of refugees being either primary or secondary survivors of torture. A survey of centers meeting the needs of the refugees and torture survivors suggested that the numbers of refugee torture survivors may indeed be even higher. Chester (1990) found that approximately 35% to 50% of all refugees were survivors of torture. Moreover, Shelton (1998) estimated that there are at least 400,000 survivors of torture living in the United States today. Thus, the problem of torture is not just a concern internationally but a domestic concern for American psychologists and other professionals.

While the issue of torture, and cruel, inhuman, or degrading treatment or punishment remains a global concern, international organizations and NGOs have not remained silent. Rather work to combat torture continues and includes the adoption of additional international conventions, statutes, and the creation of support structures for victims such as

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- *Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment* (adopted by the UN General Assembly in 1988)
- *Basic Principles for the Treatment of Prisoners* (adopted by the UN General Assembly in 1990);
- *Rome Statute of the International Criminal Court* (adopted by a UN Diplomatic Conference of Plenipotentiaries in 1998);
 - Article 7 states that the systematic or widespread practice of torture and “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health” constitute crimes against humanity;
- *Torture Victims Relief Act of 1998*;
- *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Istanbul Protocol, developed by 40 cooperating agencies and supported by the UN in 1999);
- *United Nations Human Rights Council* (established March 2006).

Definitions

Torture is defined in the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment as

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. (1984, art. 1, para.1)

According to the UN *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, "the term 'lawful sanctions' in the Convention Against Torture must be interpreted as referring both to domestic and international law" (UN, 2005).

Torture, as defined above, can be physical and/or psychological. The International Rehabilitation Council for Torture Victims (IRCT) provides examples of physical torture such as, "beating, electric shocks, stretching, submersion, suffocation, burns, rape and sexual assault" (IRCT, 2006, para. 5). However, the IRCT further notes, "It is important not to forget about psychological forms of ill-treatment which very often have the most long-lasting consequences for victims.

Common methods of psychological torture include: isolation, threats, humiliation, mock executions, mock amputations, and witnessing the torture of others" (para. 6).

Definitions for cruel, inhuman, or degrading treatment or punishment are similar to those of torture but often differentiated by a matter of degree. The United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment represents torture as an extreme form of cruel, inhuman, and degrading treatment but does not specifically define the latter. The U.S. government in the McCain Amendment (#1977, Section d), final version of the FY 2006 Defense Appropriations Bill provides the following definition:

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.--In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.
(http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2005_record&docid=cr05oc05-19)

The Human Rights Learning Center (HRLC) defines inhuman or degrading treatments as "acts that inflict mental or physical suffering, anguish, humiliation, fear or debasement, but that fall short of torture" (HRLC, 2006). Human Rights Watch (HRW) in their discussion of cruel, inhuman, and degrading treatment states

International law also prohibits mistreatment that does not meet the definition of torture, either because less severe physical or mental pain is inflicted, or because the necessary purpose of the ill-treatment is not present. It affirms the right of every person not to be subjected to cruel, inhuman or degrading treatment. Examples of such prohibited mistreatment include being forced to stand spread eagled against the wall; being subjected to bright lights or blindfolding; being subjected to continuous loud noise; being deprived of sleep, food or drink; being subjected to forced constant standing or crouching; or violent shaking. In essence, any form of physical treatment used to intimidate, coerce or "break" a person during an interrogation constitutes prohibited ill-treatment. If these practices are intense enough, prolonged in duration, or combined with other measures that result in severe pain or suffering, they can qualify as torture. (HRW, 2004)

A full discussion of the issues associated with the definitions of torture and other cruel, inhuman, or degrading treatment or punishment is beyond the scope of this introduction. For a good explication of the issues and proposed solutions related to definitions, see Hovens and Drozdek (2002).

Psychological Forms of Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment

Torture can be classified as either physical, psychological, or both (Gurr & Quiroga, 2001; Mossallanejad, 2000). Hovens and Drozdek (2002) discussed research conducted by Vesti, Somnier, and Kastrup on five categories of psychological torture techniques that may or may not include a physical component:

- Deprivation techniques, such as mental deprivation – including social, sensory, and perceptual deprivation – and deprivation of fundamental bodily needs, as for sleep, food, hygiene, or health services.
- Coercion techniques, such as impossible choices and incongruent actions, humiliations, threats, and blind obedience to rules, using force to experiment with stimuli and situations that are uncommon and may be harmful to the victim's personality, such as eating feces, urinating upon others, or glorifying the authorities.
- Communication techniques, such as counter-effect and double-binding techniques, use of disinformation, distortion of perception, and conditioning of new reflexes.
- Techniques that abuse pharmacology and psychiatric institutions; victims are defined as “mentally ill” and submitted to psychiatric treatment in a hospital. Hallucinogenic or drugs with pain-inducing compounds are used.
- Sexual torture techniques, such as direct instrumental violence to the sexual organs, sexual violence using animals, or sexual acts performed by other human beings. (Hovens & Drozdek, 2002, p. 86).

Vesti, Somnier, and Kastrup (as cited in Hovens & Drozdek, 2002) further differentiated between forms of torture designed to weaken the victim (e.g., through the use of intense fear, helplessness, or exhaustion) and torture designed to destroy the personality of the victim (e.g., through extreme anxiety, shame, or threats to self-esteem). The later is of particular importance as many researchers have argued that the goal of torture is not the extrication of needed information but rather that it is a political technique aimed at the consolidation of power. As stated by Bustos (1990, p. 333), "The goal is to destroy the individual's personality. Ultimately, it serves to terrorize the entire population and end any resistance to the regime."

Clearly, knowledge grounded in psychological science can be misused to further the processes and goals of psychological torture as outlined above.

Psychological Effects of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

There is an extensive literature outlining the effects of torture on individuals both psychologically and physically. Numerous studies (e.g., Carlsson, Mortensen, & Kastrup, 2005; Hermansson, Timpka, & Thyber, 2003; Kanninen, Punamaki, & Qouta, 2003; Somnier, Vesti,

Kastrup, & Genefke, 1992) and scholars (e.g., Allodi, 1991; Gorman, 2001; Hanscom, 2001) have examined the relationship between torture and the development of posttraumatic stress disorder (PTSD). Diagnostic criteria associated with PTSD include: reexperiencing symptoms (e.g., flashbacks, nightmares), numbing of general responsiveness, avoidance of stimuli associated with the trauma, and symptoms of increased arousal (e.g., hypervigilance, exaggerated startle response) (American Psychiatric Association, 1994). These symptoms are commonly found in survivors of torture. Indeed, Garcia-Peltoniemi and Jaranson (1989) estimated that 70% of torture victims are afflicted with PTSD.

McIvor and Turner (1995) and Herman (1992) further argued that individuals who experience torture or prolonged, systematic trauma are more likely to develop a complex form of PTSD that is resistant to treatment. Carlsson, Mortensen, and Kastrup (2005) in a longitudinal study of patients admitted to the Rehabilitation and Research Centre for Torture Victims in 2001 and 2002 found no change in mental symptoms or health-related quality of life upon follow-up assessments. Additionally, Weisaeth (1989) found that torture victims exhibited continued PTSD symptomatology with extended emotional distress despite treatment. This highlights the need for further research concerning PTSD in torture survivors, multicultural implications related to the treatment of torture survivors, and torture specific treatment approaches.

Torture victims are also likely to be diagnosed with comorbid clinical syndromes, particularly affective disorders (Franciskovic, Moro, & Kastelan, 2001; Garcia-Peltoniemi & Jaranson, 1989; Kinzie, Fredrickson, & Ben, 1984). Somnier, Vesti, Kastrup, and Genefke (cited in Gorman, 2001) reported

large-scale studies of torture survivors showing pronounced and homogeneous patterns of extreme anxiety, impaired memory, intrusive thoughts and impaired concentration, insomnia and nightmares, emotional disturbances, sexual dysfunction, occupational and social impairment, somatic symptoms, substance abuse, learned helplessness, depersonalization and dissociation, fear of intimacy, and changes in identity. (p. 444)

Moreover, torture survivors may also need assistance with a broad range of medical and dental needs, developmental needs, and needs related to daily living (e.g., housing, employment; Pope & Garcia-Peltoniemi, 1991).

The intergenerational impact of torture is another area of concern to psychologists. In a quasi-experimental study, Daud, Skoglund, and Rydelius (2005) compared the children of torture survivors with the children of families of similar ethnic and cultural backgrounds who may have experienced violence but not torture. The authors report that

the comparison between the children in the traumatized parent group and those in the comparison group showed statistically significant differences at the $p < 0.001$ level with respect to the following key diagnoses: behavioural disturbances, adjustment problems with signs of depression, post-traumatic stress disorder (PTSD), anxiety, somatisation and psychosocial stress factors (p. 31).

Such intergenerational transmission of trauma has also been studied in concentration camp survivors and combat survivors (e.g., Rakoff, Sigal, & Espstein, 1966; Rosenheck, & Nathan, 1985).

It is important to bear in mind that torture also has an impact on both the perpetrators and the community. MacNair (2002) described "perpetrator-induced traumatic stress," a syndrome similar to PTSD. This syndrome is described and based on studies of combat veterans. According to MacNair (2006), there is "evidence that PTSD symptoms can not only result from acts of killing but may be more severe under that circumstance" (p. 192). Additional research by Wantchekon and Healy (1999) and Haritos-Fatouros (1988) highlighted the social psychological factors involved in the creation of torturers and the impact that such role assumption has on the perpetrator.

On a community level, torture is facilitated by the stigmatization and dehumanization of the "other" or outgroup. Dehumanization is often a necessary tool to reduce the cognitive dissonance that may occur when individuals behave negatively toward other human beings (Berscheid, Boye, & Walster, 1968). As the out-group is perceived as increasingly different or subhuman through the process of dehumanization, there is a concomitant willingness among the populace to disengage morally (Bandura, 1998). Euphemistic language and palliative comparisons can reduce the seeming severity of committed destructive actions. In addition, the process of moral disengagement is facilitated by the natural tendency for individuals to blame the victim via a belief in a just world (Correia, Vala, & Aguiar, 2001). The process of moral disengagement becomes complete as the victim becomes excluded entirely from the normal moral realm (Opatow, 1990). Unfortunately, this process can foster an atmosphere of impunity, which increases the probability of future violence (Roth, Bolton, Slaughter, & Wedgwood, 1999).

Treatment

Much has been written about the treatment of survivors of torture and cruel, inhuman, or degrading treatment or punishment. General overviews include Allodi (1991), Basoglu (1992), Gerrity, Keane, and Tuma (2001), Hanscom (2001), Jaranson and Popkin (1998), Pope and Garcia-Peltoniemi (1991), and Spiric and Knezevic (2004).

It should also be noted that the *Istanbul Protocol: International Guidelines for the Investigation and Documentation of Torture: Psychological Evidence of Torture: A Practical Guide to the Istanbul Protocol for Psychologists* was published in 2004 and provides concrete information for psychologists concerning the investigation and evaluation of allegations of torture.

4. Likelihood of the Resolution having a Constructive Impact on Public Opinion or Policy

As a scientific and professional organization, APA public policy stances have both national and international significance. By publicizing the proposed resolution and using it to take public and unequivocal positions against torture without exceptions, APA can communicate to the public clear messages about the fundamental human values on which American psychological research, practice, and consultation are based and evaluated. Within the national context and through its non-governmental status at the UN, APA also can play a very constructive role in educating the

public on psychological research regarding the long-term, multiple psychological and physical effects of torture on individuals and the difficult challenges and processes involved in conflict resolution and the building of peaceful and just societies after violent atrocities.

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