

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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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

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and CIDT/P, and is of interest to those who work with victims of other violent crimes, such as child abuse, interpersonal abuse, and forced displacement. The book raises many important questions.

The first chapter—“A Theory- and Evidence-Based Approach to the Definition of Torture”—plays an anchoring role and is frequently referenced throughout the book. Here, Başoğlu proposes an interesting learning theory formulation of torture. Most victims find testifying about their torture re-traumatising, particularly when facing an aggressive cross-examination, even if, at the end, the victim perceives the whole legal process to have been therapeutic. Perhaps the learning theory formulation could limit the scope of the testimony needed in open court by switching the emphasis from the particulars of a case to an account that allows the adjudicator to make a risk stratification (see pp. 29–35).

According to Başoğlu, the learning theory model proposes that torture occurs as a result of the cumulative risk associated with helplessness and hopelessness when a person is subjected to an unpredictable or an uncontrollable environment while under the control of a person in a position of authority. From the public health perspective, it could also be beneficial for victims seeking redress when they have not suffered permanent sequelae, or have yet to experience any adverse effects from the torture. For example, risk stratification models have been used to compensate individuals exposed to asbestos, a substance that has a long latent period and can lead to a wide spectrum of medical conditions, including cancer.⁵ From the litigation

point of view, a risk stratification approach can pose challenges to the prosecutor or attorney representing the victim.

It would, however, be harder to prove that the perpetrator’s actions resulted in a victim’s severe pain and suffering when the basis for this formulation (i.e., a multivariate regression model) establishes a measure of association and not of causation.⁶ For example, defense attorneys for the tobacco industry, quite successfully, attacked the uncertainty and external validity of epidemiological studies that used such statistical approaches to evidence the latent consequences of the disease.⁷ Certainly, the expert witnesses and the attorney conducting the examination would need to be skillful in educating the adjudicator to understand the methodological strengths and limitations of a retrospective non-randomised cohort study so that the proper findings of fact and law can be made during the legal proceedings.

The discussion in part two of the book, regarding the elements that constitute the crime of torture and the evolution of the legal definition, may prompt the reader to realise that torture is, perhaps, the only crime where the victim’s severe pain and suffering is an element to be proven during the trial phase rather than the sentencing part. Would the absence of this element hamper its enforceability, as suggested by Ginbar in chapter ten? CIDT/P is also an

with Trust Distribution Procedures. Available at: <https://www.hg.org/legal-articles/asbestos-trusts-assess-and-pay-claims-in-accordance-with-trust-distribution-procedures-30324>

⁶ For a clear discussion on these methodologies, please see Alexopoulos EC. Introduction to multivariate regression analysis. *Hippokratia*. 2010;14(Suppl 1):23–28

⁷ See Guardino SD, Daynard RA. Tobacco industry lawyers as “disease vectors”. *Tob Control*. 2007;16(4):224–228

⁵ See Howard Roitman & Associates. *Asbestos Trusts Assess and Pay Claims in Accordance*

enforceable and punishable crime that does not include severe pain or suffering. States and their actors have been found responsible for committing this crime despite it not being formally defined in the United Nations Convention against Torture. Therefore, do we have the moral authority to include severe pain and suffering for some acts when there are others that are, *ipso facto*, torture, as Méndez and Nicolescu mentioned in chapter nine? One can imagine the public uproar if we were to require severe pain and suffering as elements to prove child abuse or rape, two other abhorrent crimes.

There are two key topics that could have been addressed in more depth in the book. The first is the topic of torture at the hands of non-state actors in nations where the state has completely collapsed or is no longer functional (as occurred at one point in Somalia, Afghanistan and Syria), and where groups, not recognised by the international community, assume official government functions—such as taxation, police, justice, control of movement, and the delivery of other public services—and engage in torture and CIDT/P of the population.⁸ The second topic is social pain and whether it amounts to severe pain and suffering. In chapter four, Björkqvist discusses it from an anthropological perspective, but the book does not explore this concept within a legal sphere.⁹

In summary, Başoğlu's book is a welcome addition to the literature about torture and CIDT/P and represents a must read for those who work with victims of violence. The book promises to keep the reader engaged from the beginning to the end and invites them to constantly reflect on current practices, due to the breadth and depth of its content.

⁸ See Lord R. The Liability of Non-State Actors for Torture in Violation of International Humanitarian Law: An Assessment of the Jurisprudence of the ICTY. *Melbourne Journal of International Law* 2003;4(1)

⁹ On this subject, the Inter-American Human Rights Court found Guatemala responsible for committing torture and CIDT/P after state actors destroyed the historical links, cultural traditions, and collective experiences of the Plan de Sanchez community. See Inter-American Court

of Human Rights. *Case of the Plan de Sanchez Massacre v. Guatemala—Reparations*. November 9, 2004