

Unruly Practices: The History of Torture Throughout the Ages

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1. Introduction

States can commit many abuses against human rights. Some of these abuses are even more serious or have worse consequences than torture. Then also it is considerable that states have to refrain from using torture as it affects the basic pillars of the legal structure of democratic states. Torture is prohibited, and its prohibition is absolute since it implies an outrage against human dignity. This is a non-negotiable value. In contrast to those rights defined by exclusion, physical and mental integrity, the main right representing human dignity, is a right of inclusion shared by every human being, superior and indivisible. The torturer destroys the victim's dignity, at the same time destroys his own dignity. The problem neither begins nor ends in the violation of the right to physical or mental integrity of a detainee in order to gather information: the problem begins prior to the violation and continues afterwards.¹ Torture if not prohibited may contaminate the democratic structures of a state. In this way, the entire society may be implicated in torture and contribute to the rise of a culture of violence. Thus, torture occurs "within a system" that fosters it.² Torture, however, is not merely a residue of some pre-modern and uncivilized past, or an accidental aberration. It can also be an inherent part of modern bureaucratic life. As Darius Rejali has shown, liberal democracies have been at the forefront of the development of torture techniques, institutions of inspection and accountability that are associated with liberal democracy have not eradicated it. Instead, those institutions have developed methods of torture that leave no marks and are difficult to monitor.³

However, in this article the term 'practices of torture' indicates 'all the methods of torture' practiced throughout the ages. These 'practices of torture' views are absolutely essential in order to have a link of network where holistic view of the problem of torture in a broader context is necessary. Knowledge in general or specific methods of torture ensures the minimization of the possible abuses of such

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¹ Carlos González Castresana, 'Torture as a Greater Evil' (2007) 24(1) *South Central Review* 119, 123.

² Paul R Kolbet, 'Torture and Origen's Hermeneutics of Nonviolence' (2008) 76(3) *Journal of the American Academy of Religion* 545, 550-551.

³ Tobias Kelly, 'The UN Committee against Torture: Human Rights Monitoring and the Legal Recognition of Cruelty' (2009) 31(3) *Human Rights Quarterly*, 777, 799.

situations. It is important to get the idea of the overall practices of torture in order to participate in the process of interviews and investigations and modify it to make an effective means of interrogation. However, historical accounts of torture methods are also necessary for monitoring the existing practices and to modify the relating guidelines accordingly.

This article at first features torture devices and how these devices became the legitimate means for justice and then the other part stands for the age of enlightenment focusing the progression of humanism and customary international law. Finally it will go for the contemporary torture and the emergence of new settings with new justifications for it. Therefore article is all about torture methods, their justified use during all through the ages and reveals various purposes of torture along with new justifications, settings and manifestations.

2 Featuring Torture Devices

This section provides the entire torture methods used throughout the history be it in the form of physical or psychological abuse or as punishment, inflicted by law enforcing authorities and particularly police in detention centers and labor camps. All these abuses, authorities and centers are imperative because of the historical records they embrace and the bizarre attributes of these methods used by the concerned authorities.

2.1 Physical Abuse

There are several varieties of torture in general and it is plainly evident that, since the earliest times, tremendous ingenuity has been devoted to the devisal of ever more effective and mechanically simpler instruments and techniques of torture.⁴ Physical torture methods have been used throughout recorded history and can range from a beating with nothing more than fist and boot, through to the use of sophisticated custom designed devices. Remarkable ingenuity has been shown in the invention of instruments and techniques of physical torture, exploiting medical knowledge of the vulnerabilities of the human body. Other types of torture can include sensory or sleep deprivation, restraint or being held in awkward or damaging positions, uncomfortable extremes of heat and cold, loud noises or any other means that inflict severe physical or mental pain.⁵ Physical torture, however, is in most instances directed towards the musculoskeletal system, aiming at producing soft tissue lesions and pain and usually leaving no visible or non-specific findings after the acute stage. Random and systematic beatings of specific parts of the body,

⁴ WordIQ.com, *Torture-Definition* (2010) <<http://www.wordiq.com/definition/Torture>> accessed 15 January 2013.

⁵ Wikipedia, *Torture* (2011) <<http://en.wikipedia.org/wiki/Torture>> accessed 25 November 2012.

strapping or binding, and suspension by the extremities, forced positions for extended periods of time, and electrical torture is frequent. Other physical torture methods include asphyxiation, near drowning, stabbing, cutting, burning, and sexual assaults including hetero and homosexual rape.⁶ It is a myth that certain torture requires complex equipment. Several methods need little or no equipment and can be improvised from innocuous household or kitchen equipment. Methods such as consumption by wild animals, impalement or confinement in iron boxes in the tropical sun are examples of other methods which require little more than readily available items.⁷ However, national and regional variations in torture practices are reported including geographical differences in the use of specific torture methods⁸ and until the twentieth century, most forms of torture that were recognized as such were purely physical in nature.⁹

In the early times, the methods of torture used were very simple. People in Egypt were whipped as a means of interrogation. The Romans used the ‘crucifixion’ method, but did not regard ‘crucifixion’ as torture. The medieval inquisition predominantly used physical torture methods, such as ‘stretching’, ‘spiked chair’,¹⁰ ‘water boarding’ (one type of oxygen deprivation where water is poured over a cloth covering the face of the victim who feels like near drown. It caused both physical and psychological damages as well as sudden death)¹¹, ‘hanging cage’ (victims of this instrument died from hunger, thirst, of heat stroke or severe cold when left outside hanging inside the cage until death occurs)¹², ‘leg screw’, ‘thumb screw’, ‘flutes’ (restricted to a particular position where flute as a torture instrument fitted with neck and fingers so as to make it impossible to change the position of the

⁶ The Parker Institute, *The need for Reparation for Torture Survivors from a Health Perspective* (2013).

⁷ See above n 4.

⁸ See above n 6.

⁹ Frances Farmers Revenge, *Torture through the Ages* (2012) <<http://www.francesfarmersrevenge.com/stuff/archive/torture/history.htm>> accessed 13 November 2012.

¹⁰ It is a terrible device chair known as Judas or Torture chair. It is used in the Middle Ages. There are spikes all over the chair where the victim is tied up. Two bars fixed over the arm-rests which were pushed harder to penetrate the flesh of the victim. Sometimes there are holes under the chair to burn the victim. It had psychological affect and used to extract confessions. Sometimes mock executions are conducted to fear the victim. Death under this device varied according to the use and took hours, a day or more to cause. See Mediavility.com, *Torture* (29 November 2008) <<http://www.medievality.com/torture.html>> accessed 26 November 2016.

¹¹ Wikipedia, *Waterboarding* (23 November 2016) < <https://en.wikipedia.org/wiki/Waterboarding>> accessed 26 November 2016.

¹² AwesomeStories.com, *Torture Instruments from Medieval Times* (01 July, 2000) <<https://www.awesomestories.com/asset/view/Torture-Instruments-from-Medieval-Times>> accessed 26 November 2016.

victim)¹³, ‘masks’ (also known as ‘mask of infamy’ is a humiliation torture device caused no torture in physical form. Victim needed to wear the mask according to the crime he committed so that the mask represented the crime)¹⁴, ‘brands and tongs’ (branding with certain marks on the various parts of the body focusing or humiliating the victim for certain offences),¹⁵ ‘pillory’,¹⁶ and many more.¹⁷ For most of recorded history, capital punishments were often deliberately painful. Severe historical penalties include¹⁸: ‘the breaking wheel’,¹⁹ ‘boiling to death’ (a form of execution by boiling in liquid or cold liquid heated up to boiling. The liquid may be anything like water, oil etc. death was caused by severe steaming)²⁰, ‘flaying’ (with tied arms and legs the victim is exposed to the torturer who peeled of the victim’s skin slowly with a knife. It is done according to the wish of the torturer starting from the face peeling to the whole body. Most victims died before it was half done. It was a very old torture methods used to execute criminals, soldiers and witches)²¹, ‘disembowelment’,²² ‘crucifixion’ (victim is tied to a wooden grin and hung for many days until death occurs. It is a form of capital punishment known from classical period but still remains in use in some countries),²³ ‘impalement’,²⁴

¹³ TORTURE replicas.com *Flute of Shame* (2015) < <http://torturereplicas.com/home/24-flute-of-shame.html>> accessed 26 November 2016.

¹⁴ Wikipedia, *Mask of Infamy* (22 December 2015) < https://en.wikipedia.org/wiki/Mask_of_infamy> accessed 26 November 2016.

¹⁵ Lordsandladies.org, *Branding and Burning Tortures* (2016) <<http://www.lordsandladies.org/branding-and-burning-tortures.htm>>accessed 26 November 2016.

¹⁶ It is a form of public humiliation though naturally mild but sometimes public made it harsh form of punishment. Victim here is subjected to the crowd and are entirely helpless. It is situated in public place so that people can see the sufferings of the victim. Here public through many objects resulting injuries to the victim. It is also used by the military as a form of punishment. See for detail See for detail Wikipedia, above n 10.

¹⁷ Atlas of Torture, *History of the Prohibition of Torture and Torture Methods* (2009) < <http://www.univie.ac.at/bimtor/prohibitionoftortureandilltreatment/355>> accessed 20 November 2012.

¹⁸ Wikipedia, above n 5.

¹⁹ It is a wooden wheel with many beams where the victim’s were tied up and it was revolved slowly to break the bones. After breaking the victim left like this to die slowly. This is a middle age capital punishment method for hated criminals. See for detail Wikipedia, above n 10.

²⁰ History Rundown, *10 Most Cruel Execution of all Time* (2014) < <http://www.historyrundown.com/10-most-cruel-execution-methods-of-all-time/>> accessed 26 November 2016.

²¹ Mediavility.com, *Flaying Torture* (29 November 2008) <<http://www.medievality.com/the-wheel.html>> accessed 26 November 2016.

²² It is the removal of the vital organs of the body specially from the abdomen. It is used as a capital punishment. It is sometimes accompanied by other forms of torture. See for detail Wikipedia, *Disembowelment* (8 November 2016) < <https://en.wikipedia.org/wiki/Disembowelment>> accessed 26 November 2016.

²³ Wikipedia, *Crucifixion* (23 November 2016) < <https://en.wikipedia.org/wiki/Crucifixion>> accessed 26 November 2016.

²⁴ It is a very harsh form of execution. It is a saturation of human by an object and ordered for criminals who committed crimes against state. It is also used in wartime or as a military punishment. See for detail Wikipedia, *Impalement* (10 November 2016) < <https://en.wikipedia.org/wiki/Impalement>> accessed 26 November 2016.

‘crushing, stoning, execution by burning’, ‘dismemberment’ (removing the limbs of a human being as a form of execution through cutting, pulling etc),²⁵ ‘sawing’ (slicing the body with hanging upside down. It is generally started from the top of the body i.e. the head and causing death within few seconds. This is one of the cruel execution methods used in the Medieval Europe),²⁶ ‘scaphism’ (victim was trapped between two objects and the whole body was covered with honey. He was left like this so that insects and rodents eat him slowly),²⁷ or ‘necklacing’ (a rubber tire filled with ignite liquids was placed around the victims chest and arms. In the process of execution torturer set fire on it and the victim suffered severe burns and eventual death occurs within a very short time).²⁸ Sometimes various implements such as: ‘bags or plastic tubes’ filled with sand and whips are used for beating. Indeed, with the additional possibilities made available through modern technology, forms of torture are now almost unlimited. Certain methods of interrogation may constitute torture and inhuman treatment.²⁹

However, some of the most frequently used techniques of the "new torture" include³⁰: ‘submarine’ where victim's sexual organs are squeezed, head is immersed continuously in a tub of filthy water, urine, excrement, and petroleum; ‘electric shock’ which is indefatigable and is regularly used by the torturers. There are variety of electronic devices like ‘electrode’ (used in teeth cavities or other orifices), ‘electro-shock machine’, ‘electric truncheons’ (used in the mouth or the anus), ‘electrified shields and handcuffs’, ‘electric cables’, etc.; ‘body extension’ where torturers fasten the knees or ankles of the victim and beat, give electric shock or abused sexually; ‘water pipe’ used for continuously injecting strong stream of water into the mouth to inflate and later on pumped out; ‘falange’ having prolonged beating accompanied by pouring water sometimes, and forced to run periodically with continuously beating; ‘extraction’ which is the pulling of hair, nails, tongue, teeth, breasts and genitals of the victim leading to pain, tenderness and injuries; ‘sexual abuse’ where women are subjected to rape, jamming of objects into vaginas, males' genitals are subjected to beatings and shock treatment; ‘roll-up’ meaning tightly strap into a bed with sheets that dry out and squeeze resulting suffocation of the victim etc. There are also other methods of torture like liquids, solids and stinging powder and even hot wax poured onto pregnant women’s bellies which

²⁵ Wikipedia, *Dismemberment* (10 November 2016) < <https://en.wikipedia.org/wiki/Dismemberment> > accessed 26 November 2016.

²⁶ History Rundown, above n 20.

²⁷ The Paranormal Guide, *Scaphism* (14 December 2012) < https://www.google.com.bd/?gws_rd=cr&ei=jH45WJLtMsvVvgSbv4foCg#q=scaphism > accessed 26 November 2016.

²⁸ Wikipedia, *Necklacing* (10 November 2016) < <https://en.wikipedia.org/wiki/Necklacing> > accessed 26 November 2016.

²⁹ Kolawole Olusola Odeku, *In Search of a Regime of Responsibility and Accountability for Perpetrators of Torture with Reference to Persons with Special Responsibility for Protecting Human Rights* (PhD Thesis, University of Fort Hare, 2008).

³⁰ Matthew Lippman, ‘The Protection of Universal Human Rights: The Problem of Torture’ (1979) 1(4) *Universal Human Rights* 25, 33-34.

would also amount to torture. Sand-filled sacks could be used for beating victims because it was well known that this method left no traces. Also, water, either boiling hot, freezing cold or salty, was most frequently used. Burns were inflicted through the use of cigarettes, as well as candles, soldering lamps, fire launchers; ovens, etc. Exposure to the sun or to freezing temperatures could also function as an indirect instrument of torture. Animals, insects and reptiles could also be used as torture instruments. Torture inflicted by animals had a broad scope. Most frequently used were dogs that had been trained to maim and rape. Snakes, especially cobras and boas, were used mostly for psychological effect; insects like ants and bed bugs were left to crawl on the victim's body or inserted into various bodily orifices such as the anus. Chameleons and other lizards were introduced in the victims' trousers so as to scratch and bite them. Mice and rats were frequently introduced into victims' mouths. Sometimes having their tails set on fire, such rodents were pumped through hoses inside the victim's larynx. Another method is the insertion of live rats inside pipes: since at one end, the pipes were burning, the rodents would have had to dig their way to salvation through the victims' chests. And it is surprising that music and noise can sometimes be used to serve as a means of torture. Victims would be exposed to shrill and aggressive sounds which were bound to cause deafness. This technique was called the music of terror. The victim's own voice sometimes acquired the paradoxical function of brainwashing the individual at sound level.³¹ Torture victims also may be forced to ingest chemicals or other products such as broken glass, heated water, or soaps that cause pain and internal damage. Irritating chemicals or products may be inserted into the rectum or vagina, or applied on the external genitalia. Cases of women being punished for adultery by having hot peppers inserted into their vagina were reported in many parts of the world.³²

2.2 Psychological Torture

The diversity, heterogeneity or universality of certain methods of torture provides no useful indication of their severity as torture consists not only in physical violence, but also and above all in the application of a whole series of methods of intimidation, humiliation and degradation designed to subjugate the victim to the point where all capacity for judgment, resistance and sometimes even survival is lost. Torture can lead to a mental breakdown stemming from a combination of psychological and physical conditions to which the victim is subjected.³³ This form of psychological torture was known as the 'Second Degree'.³⁴ In modern times, psychological torture has all but replaced the physical torture. Time in jail, for example, is often more paralyzing than many forms of physical torture.³⁵

³¹ Odeku, above n 29.

³² See above n 4.

³³ Laurent Nicole, 'Torture: The Need for a Dialogue with its Victims and its Perpetrators' (1987) 24(3) *Journal of Peace Research* 315, 318.

³⁴ Daniel P Mannix, *The History of Torture* (Dell Publishing Company, 1964) 77.

³⁵ George Ryley Scott, *The History of Torture Throughout the Ages* (Luxor Press, 1939) 4.

Psychological torture, however, such as causing panic and mental anguish can be inflicted without doing any actual physical harm to the victim. In practice the distinction between physical and psychological torture is blurred. Whereas physical torture inflicts severe pain or suffering on the victim's body, psychological torture aims at violating the victim's psychological needs by the use of extreme stressors. As physical torture, psychological torture also inflicts severe pain or suffering and even if no physical traces are left, victims often suffer from post-traumatic symptoms for a long period of time.³⁶ Examples of psychological torture techniques include³⁷: 'sensory deprivation' meaning placing hood on the head with no sensory stimulation accompanied by various other torture methods of sensory deprivation; 'threats' where threat to maim, death, and rape of the victim or his families are offered and often mock executions are conducted; 'declarations' meaning subjecting to moral compromise regarding their family, spouse, or political beliefs; 'nudity' in which victims are forced to remain in nudity in cold, damp, often insect-infested cells or deranged mental patients; 'drug abuse' conducted by injecting with depressant drugs causing paralysis, inhibit breathing, and many more diseases etc. Like physical wounds, psychological and emotional scars are usually the most devastating and the most difficult to repair. Many torture survivors suffer recurring nightmares and flashbacks. They withdraw from family, school and work and feel a loss of trust.³⁸ Psychological torture uses non-physical methods that cause psychological suffering. Its effects are not immediately apparent unless they alter the behavior of the tortured person. Since there is no international political consensus on what constitutes psychological torture, it is often overlooked, denied, and referred to by different names. Psychological torture is less well known than physical torture and tends to be subtle and much easier to conceal. Torturers often inflict both types of torture in combination to compound the associated effects.³⁹

2.3 Torture as Punishment

Most of the recorded history shows the use of torture methods as 'punishments' which were applied to prisoners, offenders or criminals. Public executions for the earlier times were nothing but applying torturous methods in another form. The peculiar power of punishment was assented through the constant mocking of whole community.⁴⁰ The Indian masterpiece the Arthashastra acknowledges certain types of torture among which six are punishments, seven types of whipping, two types of water tube and suspension. It also provides a description of each form of torture

³⁶ See above n 17.

³⁷ Lippman, above n 30, 34-35.

³⁸ United Nations, *International Day in Support of Victims of Torture* (1998) <<http://www.un.org/events/torture/bkg.htm>> accessed 25 November 2012.

³⁹ Wikipedia, above n 5.

⁴⁰ Revenge, above n 9.

inflicted on the victim. Punishments can be inflicted each day and either once or for multiple times. Persons committed crimes, extortion, theft, seized king's treasure, used stolen items or committed many of these crimes are subjected to these forms of torture in the nature of punishments.⁴¹ However, severe historical penalties include:⁴² “breaking wheel, boiling to death, slow slicing, disembowelment, crucifixion, impalement, crushing, stoning, execution by burning, dismemberment, sawing, decapitation (it is the beheading of the victim through various ways like guillotine or gibbet. It is used as execution method or device. Guillotine was the legal method of execution practised in France. It is a fixed machine having a sharp iron blade which dropped from a height to cut off the head of the victim),⁴³ scaphism, necklacing”,⁴⁴ “beheading, drawing and quartering, burning at the stake, electric chair, hanging, lethal injection (supposed to be next to painless, but agonizingly painful if the anesthetic drugs fail to keep the paralyzed victim unconscious as he or she dies), firing squad, gas chamber” etc.⁴⁵

2.4 Torture by Police

Methods employed by law enforcement agencies and states sometimes are seen by some as being tantamount to torture.⁴⁶ In almost all these cases, these acts were so common to consider them acts of torture, and are treated as probable consequences of detention at police stations. The reasons for arrest and resulting torture generally were, getting information or confession, extortion, interpersonal conflict, punish the accomplice and other associates, political activities and sometimes for silly reasons even according to the wishes of the authority.⁴⁷ Examples of certain ‘interrogation tactics’ used by police include⁴⁸: ‘twisting arms and putting face in feces’, ‘suffocation’, ‘digging in bamboo sticks’,⁴⁹ ‘the electronic baton’,⁵⁰ ‘the foot

⁴¹ India Netzone, *Trial and Torture to Elicit Confession, Removal of Thorns, Arthashastra* (2010) <http://www.indianetzone.com/51/trial_torture_elicit_confession.htm> accessed 9th December 2012.

⁴² Christine Farina, ‘A Review of Torture Through The Ages’ (2001) 9(1) *Journal Of Criminal Justice And Popular Culture* 31, 31.

⁴³ Wikipedia, *List of methods of capital punishment* (06 November 2016) <https://en.wikipedia.org/wiki/List_of_methods_of_capital_punishment > accessed 27 November 2016.

⁴⁴ As defined in the ‘Physical Abuse Part’ in this article and also see Wikipedia, above n 5.

⁴⁵ See above n 4.

⁴⁶ Id.

⁴⁷ Ami Laws and Vincent Iacopino, ‘Police Torture in Punjab, India: An Extended Survey’ (2002) 6(1) *Health and Human Rights* 195, 200-204.

⁴⁸ Revenge, above n 9.

⁴⁹ It is also known as bamboo toothpicks where torturer hit sharp bamboo sticks into the fingers of the victim through the lean of the fingernails. See for detail Minghui.org, *Methods of Torture Used on Falun Gong Practitioners in Daqing City, Heilongjiang Province* (December 18, 2007) <<http://www.clearwisdom.net/emh/articles/2007/12/18/92246p.html>> accessed 26 November 2016.

shackle' (physical restraint used on the prisoners or slaves where they are not allowed to walk other than the restricted area)⁵¹, 'the pear' (a device used to rupture the sensitive membranes and tissues. It expands after being inserted orally, anally, or vaginally), 'the headcrushers' (crushing the head slowly by compressing the bar against the cap with suffering the high pain in a slow way)⁵² etc. Other forms of torture like 'electric shocks, mock executions, forced into various uncomfortable positions, pulling by the hair, smashing head and submerged under water, pull out fingernails and toenails, poked with thick needles, acid or gasoline poured on body, rape and watching relatives to be tortured etc.⁵³ However, suspected terrorists are also subject to torture like prolonged sleep, sight, sensory and hygiene deprivation; extreme temperature exposure, certain degrading treatments like forcing to eat and use the toilet at the same time⁵⁴ etc. are also recorded to be used as torture methods by the police.

2.5 Torture in Detention Centers and Labor Camps

Detention centers and labor camps were sometimes designed to assist the infliction of torture. Terrorist networks and potential threats are the rationales that mined in getting information from the portrayed threat through 'enhanced interrogation techniques'. This type of interrogation used generally in the 'war on terror' and employ various torture methods like 'hooding'⁵⁵, 'manipulation through diet and environment', 'forced nudity', 'increasing anxiety through certain threatening objects', 'prolonged standing and walking', 'shaving of hair or beard forcefully', 'sleep deprivation' etc.⁵⁶ Among the other methods used the following are the commons⁵⁷: 'water dungeons' (immersing the chest of the victim in deep dirty or sewage water), 'stripped naked and shocked', 'force feeding', 'backing up an airplane'(with the feet close together the victim is required to bend over, holds the legs straight and sometimes are subjected of beating), 'carrying a sword on the

⁵⁰ It is one of the electroshock weapon designed to incapacitate the muscle functions though no significant injury is caused. Many types of electroshock devices are developed to deliver electric shock to the victim. See for detail Wikipedia, *Electroshock weapon* (14 November 2016) < <https://en.wikipedia.org/wiki/Necklacing>> accessed 26 November 2016.

⁵¹ Wikipedia, *Legcuffs* (01 November 2016) < <https://en.wikipedia.org/wiki/Legcuffs> > accessed 26 November 2016.

⁵² See for detail above n 10.

⁵³ Laws, above n 47.

⁵⁴ Wikipedia, above n 5.

⁵⁵ A torture method to place a cover over the entire head of the victim in order to cause segregation, fear and confusion. Along with that sometimes victim's hands are tied by the torturer. It is generally used in interrogation and the torturer is in advantage of unidentified authority and to act with impunity. It is sometimes used with beatings to enhance the nervousness of the victim. See for detail Wikipedia, *Hooding* (07 November 2016) < <https://en.wikipedia.org/wiki/Hooding>> accessed 27 November 2016.

⁵⁶ Ruth Blakeley, 'Why Torture?' (2007) 33(3) *Review of International Studies* 373, 377.

⁵⁷ Revenge, above n 9.

back', 'tying the ropes' (one of the inhuman torture methods applied during interrogation and in forced labor camps. Victims arms are tied behind his back and only the toes are touching the ground. The victim is hung from a high place and there are sharp sticks on the rope that cut into victim's flesh slowly which is very painful),⁵⁸ hanging up etc. Other means included 'the thumbscrew' (is a device designed with projecting hoops on the inner faces. The fingers of the victims are put inside the device and crushed slowly. Sometimes it is used to cut the thumbs and inflicts pain in the nail beds. This can be used in larger format to crush the victim's feet and ears),⁵⁹ 'the iron collar' (is a form of public punishments just like stocks. The collar had spikes, studs and filled with lead causing discomfort and pain to the wearer. It may be attached to a chain or post where the victim was subjected to laughter and maltreatment by the public)⁶⁰, 'compressing ankles', 'squeezing fingers', 'breaking victims' teeth', 'burning with fire', 'forcing objects down into stomach' and 'pouring water into throat'.

3. Torture in the Middle Age: A Central Component of Judicial System

Torture in the middle ages became a part and central component of the then judicial system. People at that time used torture as an option for mob justice and a legitimate means for punishment. Torture sometimes included humiliation punishment and stood deterrent in footing.

3.1 Centering in Royal Palaces and Castles of Nobility

The use of torture chamber during the Middle Ages was frequent and throughout the history these chambers have been used in a multiplicity of ways. Persecution on the basis of religion, social and political led to the widespread use of torture during that time. In the past, these chambers were located in royal palaces, castles of the nobility and even in the church. Torture chambers were used as a form of intimidation and coercion. The victims were first shown the chambers and if they confessed for particular purposes they could escape from torture as designed in those chambers. Torture chambers were windowless and built in underground, with few candles and specifically designed to bring terror, fear and misery to anyone. They featured secret trap-doors which could be used to throw victims into dark dungeons to remain and eventually faced death. The skeletal were strewn on the floor of the hidden dungeons. They also constructed with thick walls so that the yelp of the victims

⁵⁸ Minghui.org, *Illustrations of Torture Methods used In Chinese Detention Centers and Forced Labor Camps, Part 1* (24 November 2001) < <http://www.clearwisdom.net/emh/articles/2001/11/24/16156.html> > accessed 26 November 2016.

⁵⁹ Wikipedia, *Thumbscrew (Torture)* (21 November 2016) < [https://en.wikipedia.org/wiki/Thumbscrew_\(torture\)](https://en.wikipedia.org/wiki/Thumbscrew_(torture)) > accessed 26 November 2016.

⁶⁰ Royal Armouries, *Iron Collar* (2016) < <https://royalarmouries.org/line-of-kings/line-of-kings-objects/single-object/338> > accessed 26 November 2016.

could not be heard from the outside. There were also walls in the chambers that were curved and designed in such a fashion that reflected the screams of the victims and the sounds would not be carried to the outsiders. Sometimes there were rooms hidden behind fake walls and also pictures of the slashed necks, gouged eyes and genitals blackened were located in many torture chambers at that time.⁶¹

3.2 Standing in Deterrent Footing

The Middle Ages torture was regulated systematically by law for the purpose of obtaining confession or information. The law used torture for punishing offenders in major offenses⁶² or for real or imagined wrongs.⁶³ Public displays of torture in the form of punishment like stoning and crucifixion where the victims suffering was maximized were used mainly to deter other criminals.⁶⁴ In certain cases torture was publicly inflicted as a warning to anyone who might transgress.⁶⁵ Therefore punishment through torture was the removal of criminals from society.⁶⁶ However, the early European codes were usually based on the principle of *Lex Talionis*, the idea of an eye for an eye.⁶⁷ Punishment for crimes should be similar to the offense that would form the basis of Hebrew, Greek and Roman legal systems. Religious sacrifices also were tantamount to torture in many cultures.⁶⁸

3.3 Structuring Humiliation Punishment

It is in the recorded history that many states put tortures into the category of punishment to justify their use. All these punishments are degrading, having cruel indignities and contempt-bearing stage offered to political, religious and other offenders through the fifteenth, sixteenth and seventeenth centuries. This type of humiliation punishments were essential in order to promote good citizenship and maintain due order and government at that time. Certain types of torture were inflicted to perform legal and restrictive duties and focused marked benefits in the community to deter others. The very idea of ignominy was embodied and made apparent. Examples of such instruments of punishment among others include:⁶⁹ ‘ducking stool’ (one kind of punishment specially assigned to scolding women), ‘pillory’ (offences of cheating, quarrelling, slandering, threatening, treason, sedition, blasphemy, witch-craft, perjury, wife-beating, , forestalling, forging, tree-polling,

⁶¹ Wikipedia, *Torture Chamber* (2012) <http://en.wikipedia.org/wiki/Torture_chamber> accessed 20 November 2012.

⁶² Daniel P Mannix, *The History of Torture* (Dell Publishing Company, 1964) 12.

⁶³ George Ryley Scott, *The History of Torture Throughout the Ages* (Luxor Press, 1939) 7.

⁶⁴ Mannix, above n 62, 17.

⁶⁵ Wikipedia, *Execution by Elephant* (2012) < http://en.wikipedia.org/wiki/Execution_by_elephant> accessed 28 November 2012.

⁶⁶ Scott, above n 63, 12.

⁶⁷ Mannix, above n 62, 14.

⁶⁸ Ibid, 14-15.

⁶⁹ Revenge, above n 9

gaming, lying, libelling, conjuring, fortune-telling, priggish, drunkenness, impudence etc' were pilloried), 'stocks' (petty thieves, gambling, fortune-telling, wife-beating and a variety of other offenders, were all punished by the stock'), 'wearing of significant letters focusing ignominy', 'scold's helm' (an instrument having iron cage of great weight covering the entire head with a flat tongue of iron placed in the mouth over the tongue), 'brank' (a punishment generally used for women but men were sentenced to wear it as humiliation punishment and torture device), 'performing penance in public'(victims for minor sins, offenses against religious usages, immorality, cheating, defamation of character, and other transgressions suffered this humiliation in church through significant action, position or confession), 'running of the gantlope' (punishment for soldiers, guilty of rioting or drinking. They need to ride on the wooden horse of twelve feet high with a straight, narrow, horizontal pole and the offenders hands were tied behind his back), 'picketing' (the culprit was strung up to a hook by one wrist while the opposite bare heel rested upon a stake or picket, rounded at the point just enough not to pierce the skin), 'whirligig' (a cage made to revolve at great speed resulting unspeakable nausea and agony) etc.

3.4 A Legitimate Means for Justice

Modern scholars find the notion of torture to be attuned with the society's concept of justice.⁷⁰ It was seen as a legal category, passing on specific forms of cruelty and suffering. The growth of judicial torture was thus the result of a desire to create legally reliable evidence⁷¹ compatible with the moral codes of those communities.⁷² Understanding torture therefore cannot be separated from the legal practices that shape its meanings and implications.⁷³ Also torture had long been used in criminal trials when necessary and even jurists were in favor of using it.⁷⁴ People who inflicted torture in such communities were intensely mistaken about the morality of torture and thought that they did nothing wrong in using it.⁷⁵ When religious institutions like Church used torture in its proceedings, this would lead the other civil authorities to adopt the practice as well.⁷⁶ Later on it was followed by subsequent rulers who realized that their citizens valued such a display of force⁷⁷ and general forms of torture when became commonplace, the next generation started to adopt more harsh forms of punishment within their justice system.⁷⁸ During the

⁷⁰ Wikipedia, above n 5.

⁷¹ Tobias, above n 3, 781.

⁷² Odeku, above n 29.

⁷³ Tobias, above n 3.

⁷⁴ The Middle Ages Webside, *Middle Ages Torture* (2012) <<http://www.middle-ages.org.uk/middle-ages-torture.htm>> accessed 19 November 2012.

⁷⁵ Odeku, above n 29.

⁷⁶ Richard Kieckhefer, *Magic in the Middle Ages* (Cambridge University Press, 1989) 190.

⁷⁷ Scott, above n 63, 10.

⁷⁸ *Ibid*,13.

period of Jesus Christ; Romans, Jews, Egyptians and many other cultures treated torture as part of their justice system. Crucifixion, stoning, desert sun death all these acts of torture were considered necessary as to deter others or punish the immoral.⁷⁹ Torture was thus applied against dangerous criminals in order to deal with extraordinary situations and protect their citizens.⁸⁰ Also there were rulers who tortured the conquered enemies as an example for other potential foes,⁸¹ in an attempt to make them submit to Roman authority.⁸² And slaves as well as other members of the lower classes were tortured heavily for petty crimes by their superiors.⁸³

4. Enlightenment Period: Ending Harsh Physical Torture

This part is about the explanation for the abolition of torture through the age of enlightenment and the progression of humanism and customary international law. Later on it shows that after the extensive use of torture in criminal trials and for other purposes, people raised their voices against torture in many forms and the opposition became more stern resulting in one part the rejection and eventually the abolition of torture.

Legal and historical scholars of the 19th and early 20th century are of the view that the first process leading to the abolition of torture took place at the time when rulers began to standardize and rationalize local codes into a system of national laws.⁸⁴ And it is only after the 16th Century when stronger voices oppose torture openly.⁸⁵ From the beginnings of civilization, there have been a few notable individuals who voiced against torture and among them Seneca, Cicero, and St. Augustine recognized torture as the unjust conviction of innocents. The works of Johann Graefe in 1624 (*Tribunal Reformation*) and Cesare Beccaria, in 1764 (*An Essay on Crimes and Punishments*) opened debate on the ethics of torture and voiced against torture with the view that torture is unnecessary in proving guilt and unjustly punished the innocent. However, it is the 17th and 18th Centuries that state sponsored torture was rejected and abolished eventually.⁸⁶ Another argument that led to the abolition of torture was that torture since inflicted before guilt was determined⁸⁷ was as inhuman as unreliable in ascertaining the truth in a trial and punished the innocent more than

⁷⁹ Wikipedia, above n 5.

⁸⁰ See above n 74.

⁸¹ Mannix, above n 62, 29.

⁸² Ibid, 5.

⁸³ Scott, above n 63, 46.

⁸⁴ Christopher J. Einolf, 'The Fall and Rise of Torture: A Comparative and Historical Analysis' (2007)25(2) *Sociological Theory* 101, 109.

⁸⁵ Joseph Klaitz, *Servants of Satan: The Age of the Witch Hunts* (Indiana University Press, 1985) 153.

⁸⁶ Scott, above n 63, 135.

⁸⁷ Einolf, above n 84.

the guilty.⁸⁸ Religious institutions also on several occasions condemned torture on the ground of opposing the divine and human laws. According to them confession should be given voluntarily, and not by force.⁸⁹ Even, during the early modern period, a change was made in the standards of proof where circumstantial evidence and the testimony of one witness were made adequate to bring a conviction instead of the requirement of two witnesses or a confession.⁹⁰ And all these arguments among others against torture made the enlightenment rulers abolish torture.⁹¹ Thus, criminal law was humanized with the age of enlightenment where punishments and judicial procedures had to respect the dignity of persons. Throughout this time it has been recognized that torture was a symbol of the old regime and the barbarous custom of interrogation via torture is useless and contrary to 'law, reason and humanity'.⁹² Since the use of torture was made legal on the reliability of confession to establish the truth, the authorities during this time made a confession conclusive only if it is made before the court and in case of extra-judicial confessions made in the police custody provisions were made to corroborate that by independent evidence.⁹³ Authorities were entrusted to look into the aggravated danger of torture and suggested various ways for eliminating it. And accordingly among others police torture (third degree) was made a criminal offence and in case of a trail confessional statement to a police officer was made totally inadmissible as evidence.⁹⁴ And consequently legal reformers started to make increasingly persuasive arguments about the ideas of rationality and value of human life. These arguments gradually gained influence, and the sovereigns of many states were progressively convinced to abolish torture.⁹⁵ This was 'the end of the era of harsh physical torture' and the door of torture was closed at last on its use though few governments sanctioned tortures besides incarceration after this time.⁹⁶

5. Progression of Humanism and the Customary International Law: Prohibition in Absolute Form

With the development of Humanism in the mid-19th century torture views have drastically changed and revised according to humanist principles. These principles condemned torture as a grave violation of Human Rights and focused it as contrary to respect for the person and dignity. The English Bill of Rights of 1689 denounced

⁸⁸ Odeku, above n 29.

⁸⁹ See above n 74.

⁹⁰ Einolf, above n 84.

⁹¹ Odeku, above n 29.

⁹² Napoleon Bonaparte, *Letters and Documents of Napoleon: The rise to power, Vol.1* (Oxford University Press, 1961) 274.

⁹³ David Hope, 'Torture' (2004) 53(4) *International and Comparative Law Quarterly* 807, 812-814.

⁹⁴ Sheikh Hafizur Rahman Karzon, *Agency of criminal justice system: A historical review* (2005) < <http://www.thedailystar.net/law/2005/02/02/history.htm> > accessed 8th December 2012.

⁹⁵ Einolf, above n 84.

⁹⁶ Revenge, above n 9.

cruel and unusual punishment that further developed in the idea of universal human rights.⁹⁷ However, changes in perceptions of the value of pain also results in abolition of torture during the 18th century where medical profession began to recognize pain as absolutely negative, and influence the wider culture. After the end of the eighteenth century, torture became the greatest enemy of ‘humanitarian jurisprudence and of liberalism’ and the utmost threat to law and reason. There were changes in the law of evidence derived from reason, intuition and common sense of the judge. The accused had not pronounced guilty from the onset, had the right to defend and his guilt had to be proved beyond doubt along with be verified through evidence and credible witnesses. The emergence of new criminal sanctions was there and attributed to economic changes, the development and legitimating theories of the states. It was no longer deemed sensible to establish truth by testing body and was thus all the previous ‘vengeance, evidence and punishment’ are now subject to rational thoughts. A number of other aspects like the ‘doctrine of infamy’ (movement to separate and define more precisely legislative and judicial powers), ‘theories of the rule of law and natural law’ etc. of late eighteenth-century legal thought and culture also enlighten the process of the abolition of torture.⁹⁸

Moreover the adoption of the Universal Declaration of Human Rights in 1948 by the United Nations binds all the member states on a general ban of torture that ultimately became a part of customary international law. Also, legal remedies for victims of torture are provided under the general international law by determining torture ‘an enemy of all mankind’. And treaty obligations obliged the state parties to incorporate anti-torture provisions into municipal law.⁹⁹ Also many states have a

⁹⁷ Wikipedia, above n 5.

⁹⁸ Odeku, above n 29.

⁹⁹ Major treaties focusing prohibition of torture in absolute form either directly or through interpretation of these statutes among others are :*International Covenant on Civil and Political Rights 1966, Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1975, United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984, Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 2002, Geneva Conventions of 1949 and their Additional Protocols, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 1988, United Nations Standard Minimum Rules for the Treatment of Prisoners 2015, the Code of Conduct for Law Enforcement Officials 1979, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 1990, Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment 1982, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1999, Rome Statute of the International Criminal Court 1998 etc. These treaties are having treaty obligations and sometimes also bind the state parties under the general international law i.e. the customary international law.*

right against self-incrimination and explicitly prohibit any type of undue force while dealing with suspects. Recently controversy arises over the ‘torture methods’ (which is nothing but the veiled form of torture used in historical times with certain exceptions) used in the war on terrorism. Certain regional courts declared these types of methods to be inhuman and degrading treatment. Rulers also began the process of reversing their administration policies that permitted the use of torture¹⁰⁰ and hence, the absolute prohibition of torture without any justification for it became a central part of civilizing mission of the nineteenth and twentieth century¹⁰¹

6. Torture in the Contemporary: Emergence of Different Manifestations of Torture

Torture in the contemporary is nothing but reverting tortures of primitive humans. According to certain historians ‘torture was fully abolished in theory and nearly abolished in practice in 19th century with a vengeance only to return in the 20th. Depending on situations, torture has been carried on in silence or semi-silence with official denial or known but not spoken features.¹⁰² The Economist magazine proposed the reason for torture that it indeed work in some cases where the accused is indeed guilty.¹⁰³ Torture now are not restricted to totalitarian and dictatorial regimes, established democracies also are using it on the basis of national security forgoing the rights of suspects.¹⁰⁴ Other strategies like “plausible deniability, secret police, need to know, denial that certain treatments constitute torture, appeal to various laws (national or international), use of jurisdictional argument, claim of overriding need, the use of torture by proxy” are used to circumvent legal and humanitarian duties of various states. With this denial and avoidance of prosecution, people ordering or carrying out acts of torture are not having legal consequences and impunity prevails. UN Special Rapporteur for the Commission on Human Rights, Sir Nigel Rodley, believed that impunity is the principal cause of the continuation and encouragement of human rights violations including torture and continues to be so. Not only states but also non-state actors like guerrilla groups, crime syndicate, paramilitaries and sometimes kidnappers etc. are also engaging in it.¹⁰⁵ Today, the use of torture has continued to be routine practice in many countries, even though torture and ill-treatment are prohibited absolutely under international law. Recent debates over the fight against terrorism have revealed new techniques of torture in

¹⁰⁰ Wikipedia, above n 5.

¹⁰¹ Tobias, above n 3, 782-783.

¹⁰² Einolf, above n 84.

¹⁰³ Wikipedia, above n 5.

¹⁰⁴ See above n 4.

¹⁰⁵ Wikipedia, above n 5.

the veil of ‘coercive interrogation’ as stated earlier in this article together with new attempts to justify the use of torture under certain circumstances.¹⁰⁶

However, torture in the 20th century where diversity increases the level of violence inherent in various conflicts represents a replacement of violence by non-state actors¹⁰⁷ causing an increase in the overall human rights violations including torture. ‘The third degree’ as interrogation methods which sometimes included flogging to get information just like the earlier historical periods was officially sanctioned. Violence against citizens in the name of communism, anticommunism, apartheid, secularism, moderation against extremism or fundamentalist or in the name of national unity or identity was used and officially sanctioned. Torture methods in contemporary times resemble those used by the primitive humans, with some exceptions. Water boarding, sexual assault and abuse, electric shock, injections, internal pressure, and sensory deprivation,¹⁰⁸ imprisonment with unusual psychological torture¹⁰⁹ seem to have been considered appropriate by some regimes to control prisoners or suspects. Also governments found more subtle and efficient means to control their subjects such as the workhouse and the penitentiary that better fit the new methods of surveillance and control, adopted to replace torture and corporal punishments.¹¹⁰ All the primitive torture methods are now used and justified, the circle is indeed complete in here.¹¹¹ Certain governments devised new technologies and a number of new mechanical means of torture and trained military officials from other countries. Even these devices are widely sold to prison authorities around the world.¹¹²

Furthermore purpose of torture today is no longer ‘truth’ but social display of domination. Modern torture is private, not public. Torture methods are now clinical, controlling the mind rather than the body and operate on patient. Different disciplines and professions for instance medicine, engineering, psychology, physiology etc. are engaged in inventing modern methods of torture.¹¹³ Many countries have developed techniques that ‘ritualized’ the use of it and distance themselves from their ‘victims.’ Torture methods are internationalized and standardized by abrogating the due process and natural justice principles and accomplished through special laws and provisions used for emergency situations

¹⁰⁶ See above n 17.

¹⁰⁷ Ibid, 113-116.

¹⁰⁸ Odeku, above n 29.

¹⁰⁹ Revenge, above n 9.

¹¹⁰ Einolf, above n 84.

¹¹¹ Revenge, above n 9.

¹¹² Einolf, above n 84.

¹¹³ Odeku, above n 29.

like martial law or internal rebellion.¹¹⁴ However, in the 21st century, even when states sanction their interrogation methods, torturers often work outside the law.¹¹⁵ There are states that used the tactic of legal or extraordinary rendition in which prisoners were extradited to foreign governments known to practice torture to be prosecuted for crimes allegedly committed.¹¹⁶

7. Conclusion

The history of torture is nothing but the sturdy progression of barbarous tactics, leading from one social epoch to the next and developed both in severity and diversity of the methods used. These methods are like those used by savages than anything in between. Overall, the severity of torture has fluctuated, growing and receding with the passing of each new period of time, but eventually reverting to its original state. There are several varieties of torture in general and it is plainly evident that, tremendous ingenuity has been devoted to the devisal of ever more effective instruments and techniques of torture exploiting the medical knowledge and vulnerabilities of the human body. The use of torture has continued to be routine practice in many countries around the world that standardized torture under the disguise of certain special laws, and sometimes torturer works outside the laws even leading the absolute denial of torture by authorities. The fight against global terrorism also revealed new techniques of torture, together with new attempts to justify the use under certain circumstances. Therefore the ending of harsh physical torture with the progression of human rights and customary international laws cannot stop the use of torture in its entirety instead it aggravated those forms with new settings and justifications which is absolutely very undesirable and regrettable for the whole world.

¹¹⁴ Lippman above n 30, 31-32.

¹¹⁵ Wikipedia, above n 5.

¹¹⁶ Wikipedia, *Torture and the United States* (2013) < [http://en.wikipedia.org/wiki/Torture and the United States](http://en.wikipedia.org/wiki/Torture_and_the_United_States)> accessed 15 January 2013.