Physcians for Human Rights

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

https://phr.org/our-work/resources/the-united-states-and-torture-a-conversation-between-experts/

Public Facing Advocacy Writing

*Below is an excerpt from a conversation between **Vincent Iacopino**, MD, PhD, PHR senior medical advisor, and **Juan E. Mndez**, former UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The discussion was moderated by **Anthony Romero**, executive director of the ACLU and PHR board member, in October 2019.*

In it, these leading global anti-torture advocates discuss progress made by the international movement to end torture, the challenge of shifting cultural ideas around torture, and why the film The Report is a timely reminder of the ongoing impunity for the torture utilized by the U.S. military after the attacks of September 11, 2001.

Anthony Romero: I want to reflect first on the U.S. context. Talk to me first about how big of a mistake is it in your point of view that we do not hold anyone accountable for torture.

Dr. Vince Iacopino: This is the United States of America: we prohibited torture and we criticized other countries [for practicing it]. All of a sudden, we acknowledge that [U.S.] torture has been systematic and authorized by policy and no one is held into account? Theres been no accountability. Theres been a great amount of information that weve been able to glean, but there are millions of pages more. The new Hollywood movie called The Report speaks to the millions of pages that didnt end up into the [torture] report. We are upside-down and backwards right now because we dont have the truth.

The narrative still stands: we did our best to try to obtain information and we tortured thousands of people. No one has been charged there except for a few people. This is horrendous. But we will repeat this history of violence in this country if we dont acknowledge the truth.

Juan E. Mndez: The United States is at fault, under international Iaw. The bad example has spread and continues to spread. We need to investigate and punish every act of torture. Some are saying, well, maybe under the circumstances, people who tortured thought that they were doing something lawful. For me, saying that is an insult to our intelligence. They didnt have the authority by law, so the actions are not legal.

Romero: Why is that, given the current state of the West Wing, why dont we see or hear more about individuals being rendered or greater use of torture. Do you think its still such a norm?

Mndez: I can only speculate Most of the war against terror has shifted. Now its more territorial. They dont apprehend people, they kill them in battle.

Early on, the George W. Bush administration seemed to be intent on gathering a lot of people, torturing them, and keeping them for whatever length of time to destroy al-Qaeda and ISIS. I think now the war has shifted. They dont rely so much on either the cooperation of other states or their own kidnapping forces around the world. They dont rely on them for interrogation. That speculation of course can change. If we have another attack here on the United States, I think it will be a lot worse the next time around.

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Romero: There are activities [of] this administration that we find problematic, such as conditions of confinement of immigrants in detention centers, overcrowding detention centers. We have big debates on whether or not to call this torture.

Iacopino: Its obviously cruel and inhumane. It is the infliction of severe physical and mental pain. The severity and the vulnerability: that is torture. We know its hard to prove it [but], in my perspective, its torture.

Romero: Give us a better sense of the progress were making, the case to prevent torture. Talk to me a little bit about where you see the debate, what we need to do differently to regroup, to ground our understanding of torture as an effective or ineffective tool in interrogation.

Mndez: We have been losing a lot of ground in the battle against torture. Its false to say that torture works. Its false to say that its inevitable or useful at all. Its false to say that sometimes it is the only thing that gets us safe and secure, and so I have some sense that we can still regain the universal condemnation [that we saw] from before 2001.

But I think the main obstacle we have for abolishing torture in our time is this kind of cultural acknowledgement and acceptance of torture. Pop culture conditions us into thinking that torture is something that is inevitable, that when it comes to very serious crimes like terrorism, organized crime, that its the only thing that works. I think we really need to regain the upper hand in the popular culture. I

think some important things are being done along those lines, but I think that we have to do a lot more.

Iacopino: As Juan already said, torture is not a rational act that produces information. Theres a lot of neurobiology to support this: when you inflict severe pain on an individual, it has cognitive effects. Its unethical and causes severe pain and suffering.

With the Senate Select Committee on Intelligence Report, there were 6,700 pages that never saw the light of day. There were about 500 pages, heavily redacted, of the executive summary. It showed that questionable intelligence was gained that could otherwise [have been] gained by non-coercive methods. This is a huge applied research study, if you will, that we practiced torture in theaters of operation, tortured thousands of people, and got no actionable intelligence.

Does torture work? Look at our history, we knew before we started this policy of widespread, systematic torture in the U.S.-Vietnam terror. We knew ahead of time that it didnt workThe CIA acknowledged in the 1970s and 1980s that it produces false confessions.

Romero: Juan, you have worked on the torture issue at the highest levels of the human rights community, as a Special Rapporteur, at Human Rights Watch, and other experience, but what makes you so different from those of us who work on torture is that you have first-hand experience. Help us understand a little about the years and the time you spent as a victim and now a survivor of torture. How does that change the way you think about the work and inform the way you approach your work at the highest policy levels in the world?

Mndez: Yes, I suffered torture under the government of Argentina a little before the military coup. I was very interested in the matter of torture and particularly on how to confront it because I was a young lawyer; I represented political prisoners, and almost all the work we did was to stop people from being tortured by petition for habeas corpus or by making denunciations in public.

I got very lucky because I was arrested and tortured at a time when they still did not have the disappearance policy in place. So, yes, they tortured me very brutally. I then spent a year and a half in prison before being adopted by Amnesty International as a prisoner of conscience.

I came into exile and I met some wonderful people here in the United States, including people who were starting to document torture from a scientific and medical perspective. Thats how I became acquainted with many of you, and what eventually became Physicians for Human Rights. I have long admired your organization. I always thought that what we needed to do is to make sure that every act of torture is investigated, prosecuted, and punished. If we could only make sure that the torturer knows that he or she will see the inside of a jail, then maybe we could prevent it. Over the years, however, I learned that investigating, prosecuting, and punishing is not that easy. We need to, most of all, force the political will. But one way of forcing the political will is being very good about documenting torture and making sure that we put institutions on the spot so they cannot deny that torture has happened.

As the special rapporteur on torture, I always visited countries with the assistance of a physician who was a forensic expert. I became very familiar with the Istanbul Protocol, and how useful it can be if we know how to use it. Prevention has many facets, but I still think that investigating, prosecuting, and punishing is central to the task of abolishing torture in our lifetime.

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Romero: Vince, let me ask you to give a broader context around the Istanbul Protocol Can you give us a sense of what it is, and how effective has it been in the development of the anti-torture movement?

Iacopino: With regards to the Istanbul Protocol, it simply happened because Turkish doctors were not empowered to submit their own testimonies in courts of law the States forensic doctors would dismiss the facts, neglect evidence, and simply write a sentence saying theres no evidence at all. We decided in a meeting that we should come up with a framework that holds States accountable to their obligations to investigate and document torture. That was the very simple idea we had. We used our best knowledge. We were 75 people from 40 different organizations and from 15 countries. It took us three years to develop a series of guidelines and principles on the effective investigation and documentation of torture. Today, its impressive to me to see how its been used. We know that its been cited in regional courts and human rights mechanisms. It has really become the gold standard for effective investigation and documentation of torture.

Romero: Juan youve been working on a series of protocols for non-coercive interviewing methods. Can you talk about how youre approaching that work, and how that can help reignite the commitment that torture does indeed not work?

Mndez: I drew inspiration for it from the work of the ACLU and others on documenting torture early on and also from the great law enforcement people who stood up and said its immoral and illegal. Not only does it not work; its very counter-productive.

In my very last report as a Special Rapporteur in the UN General Assembly in October 2016, I suggested that we needed a [new] instrument, like the Istanbul Protocol for the Documentation of Torture, like the Nelson Mandela Standard Minimum Rules for the Treatment of Prisoners. We needed one on how to do effective criminal investigations and interviews that [are] free from torture, a process that is legal and ethical but is also much more effective.

This is a complex task, as you can imagine, but Im very excited. I think by next year well have something to show to the world. Its going to be a form of universalizing a method that is proven, and that is based on the presumption of innocence in the beginning of the process; not on the search [for] confession, but [for] truth.

Romero: Lets wrap up with where you think we should go. Give us a sense of where you think we should go to make a difference.

Iacopino: Think about the time in 2004 when the Abu Ghraib photos came out. When people see it, they know its torture. They know this is something we shouldnt do. When you hear somebody scream, when you see their injuries, when they learn about their psychological pain, and how their lives have been changed forever. I think people have to understand the consequences of those actions

and the truth about its utility, the counterproductivity, and how it is jeopardizing human rights. Other organizations have done remarkable work getting retired admirals and generals to talk about how this jeopardizes the soldiers who are in the field. I think people need an understanding of what torture is. To stigmatize it as it should be that in itself is prevention. Rule of law, accountability, [and] justice are critically important. We need to prosecute people who are responsible, and that includes health professionals who are complicit.

On the other side of this, Ive taught health and human rights for many years. I think theres a cultural aspect to promoting human dignity and the idea of rights as essential to our survival, to our health as human beings. If you look at climate change and global inequality, were on a path to self-destruction. The only way to survive is to be healthy and to respect one another for the equality and dignity that we all have.

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Mndez: I think its important that we use the word torture where its justified. We need to explain why were fighting against this torture, beginning with the severity of pain and suffering, the intent factor, and the purpose factor. Through that context, we can play a very good educational role in making people understand. In terms of what we need to do, its to side with those in the front trenches that are fighting against torture in very difficult circumstances: medical professionals, lawyers, and the torture victims themselves. Help give them a voice, amplify what they say and defend, protect them from retribution for the role they play in fighting torture.

I think we also need to strengthen the mechanism of accountability, domestically and internationally. I think we need to strengthen the mechanism of protection, especially [at] the United Nations level. We need to persuade states to participate in much more effective ways than what has been displayed lately.