

The Absolute Ban on Torture and the International Treaties and Obligations of Governments

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Abstract: Human societies have always exercised inhumane treatment against persons including the behaviors. For this both mental and somatic people and puts them in a very difficult situation should be noted that the kind of behavior at law criminal under title Torture Case Discuss This. The study shows that the phenomenon of torture evolutionary history of the early days, it was common to different forms and different faces but it just has not appeared in ancient history like other anti-social phenomena. Torture and human rights violations against the sanctity and dignity of human behavior is. Torture including severe most in fact an international crime is a crime this crime on the one hand and on the other hand due to its relationship with government agents violated human rights, particularly in the domestic and international law is of considerable importance and sensitivity. The UN general assembly has condemned this practice and international law and domestic law that prohibits it must also be acknowledged that information. To hand the from this way lacking value legalis. Despite international efforts for the abolition of torture, inhumane practice still prevalent in the terrestrial world. One of the most important achievements of the international protection of human rights and the fight against torture is prohibited. The right to freedom from torture is an integral right to suspend the prohibition of torture is absolute. Given that the principle of the prohibition of torture in international law not only established according to the ordinary norms but also because of the importance of the protection of human dignity in times rule enhanced mandatory international law and recognized that because of its violation by any state under its international responsibility towards the international community. In this study, descriptive-analytical approach we try to relevant content examined and human rights of people in any situation, especially in the conditions of detention remain.

Key words: Human rights, torture and inhumane treatment, international responsibility, absolute prohibition, defamation and violation of human rights, international crime

INTRODUCTION

Looking at the history of human life bitter scenes in clear violation of his rights can be seen, among the various forms of rape, torture and other abuses inflicted severe damage to human dignity and a ban on its application to obtain confessions or Ast.shknjh information and lack of acknowledgment of the value of the key issues is always considered severe physical and mental suffering on a person's Ast.thmyl to punish or force him to confess to the crime of the distant past until recent centuries with many of the common people, gradually from the 18th century onwards torture

by guards and officials were set aside so that in the 19th century was illicit torture in most countries.

In general, it should be noted that the worst punishment of detainees, particularly those applied to their torture. Nowadays unlike ago torture imperative indecent and from category crime against munificence and office human considered A. Torture to including on humiliation, pressures mental and suffering somatic know. Issue torture from year 1973 component issues day organization nations the was. Convention among world against torture underb as "convention against torture and other penalties or behavior cruel in human or degrading" that at 1984 approval hit the mark of is from attention to

respect existence human and warning is to tortures. (Shams, 2005). According to the special rapporteur on torture is one of the main targets of the convention against torture prohibits torture in national legal systems and find the criminal and that perpetrators are adequately prosecuted, the convention provides a range of powers and obligations of the declaration worldwide law human (Article 5) mqrmydard: no one should not torture the or under punishment or behavioural cruel, anti-human or humiliation of the is "so all people, especially accused and individuals detainees must under protection the fall. The right against torture is the most important fundamental rights in accordance with international instruments, jurisprudence and practice of international organizations to observe its obligations in any situation that is not relieved of international and regional documents. In addition to the prohibition of acts torture of countries have been asked to set up an arrangement with the accused officers did not use this method (Bygzadh, 2006).

The main objective of this study is to inform of the inhumane treatment of persons, particularly when people are under arrest and detention as well as aspects of their support. In this study, stressing the importance of human rights issues that new rights is criminal, tried to be one of the most important issues to be addressed, the torture and thus may be questions like: what can torture be justified in exceptional cases? States that are party to the convention against torture, human rights and humanitarian law are the commitments? Face so we try to offer content and titles of the two parts and other materials to these questions will be answered.

IN TERMS OF THE CONCEPT OF TORTURE AND HUMAN RIGHTS DOCUMENTS

The first question that comes to mind is tortured debate about its definition. So should precisely define the framework and represent its logical structure is provided.

Torture literally means harassment, persecution, suffering and agony. Severe physical and psychological torture meant to inflict pain and suffering on a person in order to punish or force him to confess to the crime. The glossary Hqvqyny as a person physically and psychologically tortured to force him to confess defined and as is often initially charged and optionally is not willing to admit this technique may be used against him. Antonio Kassh targeted defines torture current:

Torture means of force or violence against a person's mental or physical or threat of force to obtain confessions or information or to humiliate, punish or intimidate, she is

Total international law of torture as a crime against humanity and gross human rights violations and violent phenomenon described as a clear example of violation of human rights And.shknjh direct and indirect prohibition of torture. Although, many documents in many international documents expressed but very little.

They discussed the definition of torture And.nh universal declaration of human rights and the international covenant on civil and political rights does not provide a definition of torture or other ill-treatment And.shknjh is defined in three documents:

- Paragraph 1 and 2 of Article 1, declaration on the protection of all persons against torture and other cruel treatment or punishment
- Paragraph 1 and 2 Article 1 of the convention against torture and other cruel treatment or punishment, inhuman or degrading
- Paragraph 2 of Article 7 of the statute of the international criminal court

Documents regional as well as international documents have drawn more attention to the prohibition of torture. Among just a document to define regional instruments American convention on the prevention and punishment of torture and Article 2 of torture.

Components and instances of torture: Based on the definition of the convention against torture 1984, the cabinet and the elements of torture can be expressed as follows:

Overall for the practice of torture we have met a material element. In the physical element, act or practice that constitutes the mass of material concerned. This practice has features.

The first thing that the practice of torture in principle, a positive physical action of any severe pain or suffering, physical or mental intentionally and in the act of torture is sufficient to achieve a positive material, the second question is whether the omission is Nyst.nkth can be a material element of torture? It must be said that no material omission or act can apply to this pillar of torture bourne. For example, officials refused to give water and food to the accused or his family when he needs to earn the status of the officers of emotional abuse He does not work are examples of this.

To the fact that the crime of torture can take action by action or omission, the international criminal tribunal for the former Yugoslavia has been emphasized in the case Dallyk.

In addition to the material element, the other element for the realization of the crime of torture as a spiritual pillar

there should be *mens rea* or mental element of torture, deliberate intent to commit an act of torture of a person who is placed. In so, doing this action must be taken deliberate intent.

In addition to the aforementioned elements other elements required to achieve a government official and the torture of physical and moral torture. *Bashd*. *Rknstewardship* must be accompanied by a government official, under supervision, consent, silence or to force him to the ordinary person to *Pzyrd.bnabrayn* torture of other actions taken by ordinary people to each other takes place without any government agent involved in creating them may not be subject to torture the definition of torture *Danst.dr* the government agent for the task and do your job then that practice torture took place. In verdict No. 2 September 1998 the first branch of first instance criminal court proceedings against Jean Paul Aki Rwanda since the involvement of a government official said was torture.

The last element is the realization of torture, severe pain or suffering on the torture arrived. In fact, the main element of the role played in the realization of torture. This suffering can be either physical or mental.

Antonio (2007) in "inhumane government" that notes the European Committee for the prevention of torture during his mission and inhumane or degrading treatment or punishment is in its definition of torture to acts, the characteristics of severe pain or including the basic elements that constitute the suffering inflicted.

The instances of torture should also be noted that generally can be divided into two important kinds of physical and psychological torture.

You can tell by examining the documents remained mostly widespread evidence of physical torture. In fact, characterized by physical torture inflict severe pain or suffering on a person's body which leaves often works and physical. For example in the case of torture, the court for the fist blows on the body and cigarette burns on his feet also was accused of and recognize. When serious bodily injury to the accused, official by the commissioner of individual or the government is the direct physical torture *Gvynd.ayn* kind of obvious forms of torture and the convention against torture noted serious bodily injuries. But when applied to the relatives and friends of the victim or the offender is a government official by so that to achieve objectives such as obtaining a confession from the accused this kind of torture, torture is considered indirect use of this type of torture is ingested in significant historical documents repeatedly, although, the term is often meant torture injuries evokes the physical but certainly also includes *Myshvd.shknjh* psychological trauma as well as physical torture on both

the accused and his family may apply including instances of torture can be used as the denial of a lawyer and family use of drugs that affect the psyche of the accused, the use of offensive words and speech and put the victim at risk of obscenities and insults and so on.

Inspired by the practice of the UN many governments in the human rejection of torture and the treatment of suspects and *And.az* effective measures where convicted and imprisoned as a human being in need, attention and legal support to better *Nyazmndast* education reform goals of punishment and appeal to human nature help is needed, along with penalties and legal action, respect for human dignity and spiritual rights be taken into account.

Torture of persons in custody: The largest and most important risk of torture and other ill-treatment of persons in the first phase of their arrest and detention, before they have access to lawyers or courts. This risk may persist until investigate, cut regardless of where people are kept in place. In the meantime, anyone can be a victim of torture and the difference between young and old, men, women and children are the alleged criminals and dangerous *Ndard.albth* possible in order to learn are more at risk of torture. As we know, the most important contract of torture in the convention against torture that torture and any suffering prohibits the defendants to detention and the defense and protection of people against abuses brokers government duties to the states is established. In addition to the government's responsibility is symmetrical, torture people. So, the criminal liability of international law, governments must deal with the legislative right to charge perpetrators of torture (*Ranjbarian, 2008*).

A US newspaper report on the situation of women in detention centers and prisons shocking noted and stated that women's bracelets in childbirth opened *Shvd.lazm* not to mention that in 2006 the UN human rights committee pregnant women during childbirth handcuff concerns and recommends action to stop this because this is also contrary to the international covenant on civil and political rights, the convention against torture is a violation of torture as any act by which severe pain or suffering, whether physical or mental, upon a person deliberately applied is defined. The European court of human rights that led to the arrest of the harmful effects and damage to the health of prisoners and violations of Article 3 of the European convention human rights considers.

In some countries torture and hold perpetrators secretly in private homes, military camps or other places. In this regard, a protective measure against torture ban and keep people in the place of commission emotional

separation as well as separation of the European social and inhumane behavior is unjustified and said the UN special Ast.gzarshgr claims of abuse and corporal punishment in institutions of detention and prisons has received an example of use the current year by torturers and still all the old favorites such as connect the power cord to the body's normal in some countries. Recently, human rights organizations have noted that torture of a variety of power tools with technology has been advanced to use. In one case, security officials detained a short black electric batons were accused under the larynx and so stressed that he was in pain and when I woke up the ground to immerse yourself in see blood. Brian wood, amnesty international that the investigator in these areas, says:

It seems that the torturers have noticed, stun guns and electric instruments of torture for evil purposes, it is very convenient because it is easy and tracking the use of this tool and users of the work problem

One of the centers that can be of support to victims of torture, "the center for victims of torture" is to heal the damage caused to people, especially victims of torture as well as physical and mental injuries of war into come, come into existence with the aim of stopping the torture of works throughout the world.

Prohibition of torture and check it documents human rights and humanitarian law: As mentioned in the previous study further torture to punish the accused with rape and extracting confessions and information about common legal and accused of carrying out torture in Europe during the middle ages, it was common occurs. But gradually with the peak renaissance of the fight against torture and the efforts to ban torture was reflected in international documents actually ban torture one from the main value of basic communities democratic to count the comes. To this, I have at votes different specification goods A. The most important reaction of torture in the universal declaration of human rights international crystallized, the position of the declaration for human dignity recognized (Ranjbarian, 2005).

Is torture could be justified in exceptional cases?: In response, the prohibition of torture is absolute and in order to establish a minimum of Justice shall have the right to freedom from torture is absolute to the absolute prohibition of torture Shnakht.asasa recognizes that the rule of customary international law. Therefore, all states are required to comply with it. The ban in all circumstances, even in emergency situations, there also can not be justified under any circumstances, no matter it can not be liable to punishment.

The ban is inviolable even superior orders as well do it in a way that can not by law as justification for any form of prohibited forms to be used. In fact, the prohibition of torture, even in times of war and instability Dakhlyhm policy can not be limited to temporary human Krd.asnadhqvq even in the most critical conditions, the use of torture and other cruel treatment is absolutely prohibited. This issue has become a peremptory norm, the international law commission also important when Most examples of jus cogens prohibition named in the rape, prohibition of genocide, prohibition of slavery or apartheid prohibition of torture are also referred to as one of the rules of jus cogens character as well as torture, either alone or in for a single act or when part of a widespread and systematic practice is known as a crime against humanity if the torture ban is the first case to occur in times of war is a war crime. In time of war a military person may be held accountable for the torture of a military or civilian.

Cesare Beccaria a fan of 18th century intellectual movement against torture, torture is a law that permits legal Dadmshymshrv reads and knows that calling people to suffering.

Prohibition of torture and other inhumane treatment of human rights instruments and international humanitarian law stipulated documents. Hence in line with international treaties prohibiting torture can be regional and specialized agencies of the UN's human rights and reporters NGOs also called NGOs that are working in various ways to defend human rights and against torture and torturers always been one of the most active form is difficult Dhd.zkr all documents in this regard so the most important of them are mentioned below. Among the most important human rights documents:

- Convention against torture and other cruel treatment or punishment, inhumane or degrading treatment and its protocol
- Article 7 international covenant on civil and political rights
- Paragraph 1 of Article 37 and Article 39 CRC
- Article 5 of the universal declaration of human rights
- Article 5 code of conduct law enforcement officers
- The 34-31 rule of the standard minimum rules for the treatment of prisoners
- Principles 1 and 6 of principles for the protection
- Rules 68-63 nations rules for the protection of juveniles deprived of their liberty
- Article 2 declaration on the protection of all persons against torture and other cruel

And also the most important human rights documents:

- Articles 3, 12 and 50 of the Geneva Convention on the fate of wound healing owners and people in the armed forces during campaign
- Articles 3, 12 and 51 for life guard armed forces at sea
- Articles 3, 13, 130 of the Geneva Convention on the treatment of prisoners of war
- Articles 3, 31, 32, 33 of the Geneva Convention relative to the protection of civilians in time of war are

Features ban on torture and the obligations of governments towards them: Earlier, it was stated that the prohibition of torture and other inhuman treatment as one of the tenets of human rights has been accepted by the international human rights system so it can be pointed out that the prohibition of torture has two distinct features:

- First, the prohibition is absolute and does not have any conditions
- Second, the non-suspension of the ban and in no circumstances should be canceled

Human rights committee in its general comment No. 20 on the prohibition of torture is absolute and non-suspension emphasized. Due to these features can not be an excuse terrorism or crime very intense person tortured him and any circumstances can not and will not affect the ban imposed sanctions, including torture or other ill-treatment Bashd.az hand, according to the principle of jus cogens prohibition of torture, contrary to the agreement will not be accepted as well as the state treaties banning torture member and non-member states will be required to observe it.

Selfless fight against torture, the government's involvement with Tlbd.dvlt equip all power in the sense of sovereignty, responsible for maintaining order and security and the legitimate rights and freedoms of individuals, especially those accused. In addition to commitments the ban on torture, the formation of the European Committee for the prevention of torture and the special rapporteur on torture to the UN institutions, international efforts to combat torture and other forms of inhuman treatment has improved. Other international institutions like the United Nations, united and texts, documents and resolutions issued by the Council of Europe also have to pay attention.

Governments that are party to the convention against torture, human rights and humanitarian law are the commitments?:

- In general, it can be said that although the government's commitment against torture and other ill-treatment in
- Human dimensions can vary widely but we will mention the most important part

Prevention of torture: The first and most important commitment that the government has been to prevent torture and prohibit it. This commitment is at the head of the government's commitment, the government should not be use this tool to the extent possible prohibiting it in The reason that torture and gross violations of human rights and humanitarian law and the need to prevent the offense is committed is strongly felt by the international community. Policy of prevention of torture in terms of legal and cultural requirements of society with special effects Chart Shvd.syast torture prevention in addition to other types of cruel, inhuman treatment or punishment extends Akhf of torture.

For the prevention of torture on 22 July 2002, a new UN protocol on the prevention of torture, despite the opposition of America accepted protocol. This together with the global attention to Afghan torture by US agents was introduced. The aim of this protocol development support the detainees against Shknjhmty and protocols in order to accomplish this a system of regular visits to places where abouts of persons deprived of their liberty have priority.

Establishment of effective remedy: In order to safeguard the rights of people who have been victims of torture and their redress and exercise their right to justice, states should be effective mechanisms to address the grievances of the victims to create.

The remarkable thing is that this commitment is a commitment. So, even though immediate, independent and public investigation into the victim's complaint but delayed doing so it committed a breach of its obligations in this case is the urgency of the observance In the opinion of the European Court of examples of this commitment has specific examples can be seen where governments have been blamed for the delay in the proceedings.

Compensation for victims of torture: Another task of the state compensation to torture Bashd.zrr and losses obtained by torture including moral and material losses due to the torture he was deprived of Ast.tamyn these

losses over torture even though torture may claim compensation for losses to the government's capacity allege.

Discredit the information obtained from torture: As we know torture to obtain a confession or admission of the accused are often Gyrd.qdr certain criminal prohibition of torture and described it in a distorted understanding of the results of it will be. Therefore, if the results of torture are it lacks legal effect as we to a large extent can be prevented in some cases torture is commonly any confession, inform, testimony or oath of coercion, torture and threats and even without feeling any pressure and humiliation what are the unwanted and sudden insulting a police officer and as a permanent education policy lacks legal validity. With this description of one of the government's commitment is considered the results of torture discred it there.

Regulatory mechanisms: Each of the states to prevent torture and treatment that their officers did not abuse his position and commit acts of torture are not and the monitoring mechanism should Bgyrnd.jamh international steps to prevent by acts taken against international norms, prohibit and combat torture in the eyes and the ban this practice as much as possible has been able to establish mechanisms to combat torture in the convention against torture and Nmayd.sazvkar anticipated the convention against Torture Council of Europe, "committee against torture" which clearly explained the functions and how to operate it. Included is a visit to the jurisdiction of member states and agencies to comply with any provision of prisons and detention centers is under consideration by the government be.

Training and awareness: Last commitment seems to have a major role in the prevention of torture, information and training to law enforcement officials. This commitment has always been emphasized by international institutions, human rights, because law enforcement more on the suspected torture of individuals, particularly detainees.

The United Nations and try to respond to this issue in the resolution of many members of the convention against torture Ast.kshvrhay also agreed to conduct investigations into cases of torture with each other assistance and training and information regarding the prohibition of torture fully in training law enforcement personnel, medical personnel and so that kind of detention, interrogation and treatment of detainees or arrested people involved themselves.

CONCLUSION

Torture as a crime against human dignity as well as one of the challenges of international human rights law

and justice reformers have long thought your world has been brutally fact of torture and inhuman treatment which violated the dignity and human dignity and has sought to invoke international instruments prohibited. Due to the fact that torture is widespread or systematic crimes against humanity is and yet against torture as a rule of Customary Law International accordingly, however, the need for a comprehensive and systematic measures for the protection of human beings against various abuses by those in power it is necessary not only in the domestic law of many countries prohibits torture Rsd.amrvzh and subject to punishment but also international and regional efforts to combat such behavior significant has been done to prevent it.

The important point is that the compulsion of the accused persons, particularly in response to questions during the interrogation of the best examples of violations of their rights and is inconsistent with internationally recognized principles and norms of compulsion through acts of physical torture or spiritual place while torture in all international and regional documents is strictly prohibited and criminal sanctions have been predicted for it. In the meantime, the government's commitment towards each other and towards the international community discussion. It is very important that international law under the law of treaties of spoken Shvd.mhar torture, determination and political will by governments and international institutions and governments must carefully consider their needs and the offense is committed in territory under its jurisdiction and in this way prevent national and independent mechanisms. In fact, each person is responsible for his administration's torture and therefore torture victims the right to compensation and to demand compensation from the parties and the state-observer will.

Many laws against torture and other inhuman treatment has been developed in line with that always leads to punish torturers and the cancellation of the results of torture Shvd.hq freedom from torture or the right not to be tortured in other words, based on human dignity and respect awarded to him the minimum requirement of justice that if not met, at least not justice despite all the international institutions and its efforts to combat and prevent torture, inhuman practice still common in recent years as numerous reports of torture in many countries and the international community could not remain differences in the extent and severity of this phenomenon completely destroyed.

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