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Chapter 16
Current Evidence in Personal Injury and Torture Medicine

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Abstract Why are both medicine and doctors involved in torture? If the goal of torture is to produce damage (physical or mental), pain and suffering with the aim of obtaining information, such information can be obtained without any medical involvement. However, the reality is that medicine has been an active part of torture, especially during these last decades. Modern torture requires the assistance of medicine to avoid the infliction of scars, to design procedures and tactics to exploit prisoners' weaknesses and vulnerability, as well as to falsify certificates and reports when cases are investigated. Medical torture is a question of ethics, but it is not only an ethical question. It is also a question of responsibility and professionalism, and we should act in consequence and begin with prevention from Schools of Medicine. Accountability and prevention are two key actions to eradicate medical torture, and the role of IALM and Forensic and Legal Medicine Associations is essential to achieve both, especially in the present epoch, where new methods of torture render the investigation of cases more difficult.

16.1 The Strange but Understandable Relationship Between Torture and Medicine

If we take a look at crime and the role that Medicine has played in combatting it, we see that it is not very different to the role of Medicine in relation to torture.

Through history Medicine has been a key element in crime investigation, especially when a person suffered serious injuries and damage. This situation forced criminals to adapt their behavior to medical investigation. In this way, for example, as Medicine and Toxicology discovered new techniques to identify poisons used in criminal intoxications, poisoners responded by using other toxic substances that were more difficult to detect. When fingerprints were incorporated into human

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identification protocols, they started to use gloves, and when DNA permitted the identification of the suspect from a minimal amount of biological evidence, rapists began to use condoms in their sexual aggressions.

Something similar has happened with torture given that, as Legal Medicine and the Forensic Sciences have come to understand the methods and procedures used by torturers, the latter have changed their own methods and tools in order to conceal their actions from society.

However, at some point this situation and the roles regarding torture changed, and Medicine [1, 2] moved from being "the eye that looks upon criminality" to be part of "the bandage that hides it".

To understand this new situation, it is necessary to grasp the meaning of torture and its current circumstances.

Torture is defined in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) as *"any act by which severe pain or suffering, whether physical or mental, that is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him/her for an act that he/she or a third person, has committed or is suspected of having committed, or intimidating or coercing him/her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions*".

The goal of torture is to obtain information or a confession through punishing a person, or intimidating and coercing that person, or some persons close to him or her. Usually, when a case is reported, the circumstances of the person experiencing torture are so serious that the goal is forgotten, and torture seems an act of violence with no sense, or carried out by a sadistic person. Investigation and prevention can be affected under this idea, and at the same time, make it difficult to comprehend how doctors can be involved in such acts.

To understand the role of Medicine and the Health Sciences in torture it is necessary to grasp that the goal of torture is not damage to the person, but the obtainment of information and the coercion of the person. The infliction of damage is the instrument for achieving these goals.

Under these references, Medical Torture is defined as *"the involvement of medical personnel in acts of torture, either to judge what victims can endure, to apply treatments which will enhance torture, or as torturers in their own right. It is also related to the using of medical expertise to facilitate interrogation or corporal punishment, to conduct torturous human experimentation or in providing professional medical sanction and approval for the torture of prisoners".*

The involvement of medical doctors in torture is a consequence of its meaning and circumstances. Torture is not an isolated behavior, but neither is it an individual decision. Torture does not happen outside of a system that aims to achieve the same objectives as torturers, while using of different procedures. This context explains why one of the arguments used to present torture, and medical torture as a part of it, is the "historical one" ("things always happened this way"), presenting the idea that such conduct is "irremediable" and that attempting to combat it is "hopeless", in

this way justifying torture and creating a context of passivity that make it difficult to prevent and investigate.

Many cases of medical torture have been reported from the Second World War, especially after the investigation of the Nazi regime, revealing how a number of doctors conducted human medical experimentation, among other kinds of cruelty, on a large number of people held in concentrations camps.

In response to torture, and especially to medical torture, some international organizations developed documents against medical torture, based on the breaching of medical ethics and the Hippocratic Oath. Among these documents can be listed:

- Declaration of Geneva (World Medical Association, 1948),
- Nuremberg Code (1947),
- Geneva Conventions (1906, 1929 and 1949),
- Declaration of Tokyo (World Medical Association, 1975),
- UN Principles of Medical Ethics (1982),
- UN Convention Against Torture (1984).

In spite of all these documents and the terrible history of medical torture behind us, reality has not changed enough, and the involvement of doctors and health practitioners in torture has continued, as can been seen in recent cases, such as Abu Ghraib Prison and Guantanamo Bay.

Even within this context, the consequences for the perpetrators have been minimal, and most of the doctors involved were not punished, creating a context of impunity.

It is difficult to understand and accept, but we should understand that torture is, in some way, part of the system. If we admit it, it will be easier to understand why physicians are involved in torture, and how their role is currently more necessary.

Our society is built within particular power structures. Medicine has been developed, and acts, within these structures. That does not mean that all or most medical practitioners are destined to breach their code of ethics, although medicine is just as likely to be used as a method of implementing power as any other professional activity [3].

The instrumentalization of Medicine has been used throughout history to maintain a social order established under certain ideas, values and beliefs, and thus it is not a new phenomenon. Up until 1973, the American Psychiatric Association considered homosexuality a mental illness, and the WHO kept it in its International Classification of Diseases until 1997. This is part of what Michael Foucault described as “scentia sexualis”, or the “scientification of sexuality” that made it possible to medicalize “divergent sexualities”, with doctors conducting “conversion therapy” to cure people of these illnesses, including forced hospitalization, electro-shock therapy, castration torture, drugs and lobotomies.

Torture is part of the structure of power and is conducted from inside so as to “protect” society from external enemies and threats, and this organization has two components that reinforce each other simultaneously: the social structure built under certain ideas, values and beliefs, and its own institutions created to protect and defend them.

It is part of what Dr. Steve Miles, Professor at the University of Minnesota Medical School, a board member of the Center for Victims and Torture, calls the

"structured system of complicity". This system can explain why the evolution of torture permits it to adapt to new circumstances instead of disappearing, and why the punishment of doctors who participate in these practices is so rare.

All these circumstances should be considered when approaching the issue of torture and medical torture.

16.2 Torture Medicine from Evidence to Incidence

Why are both medicine and doctors involved in torture?

If the goal of torture is to produce damage (physical or mental), as well as pain and suffering, in order to obtain information, it can be achieved without any medical involvement. However, reality shows that medicine is an active part of torture, especially during these last decades.

Traditional torture methods were based on damage, pain and suffering in different degrees, in this context the role of medicine was secondary and its participation was limited to some actions within these procedures as part of illegal torture or judicial punishment, and in some cases, to conducting experiments on prisoners. However, current circumstances have changed as well as the nature of torture.

Steve H. Miles [4, 5] affirms that doctors are integral to practice of modern torture, and describes their participation in different ways: some devise torture techniques (like rectal water infusions) in order to minimize incriminatory scars. Some monitor and treat prisoners undergoing torture in order to prevent them from unintentionally dying. Some falsify medical records and death certificates to assist regimes concealing injuries and deaths from torture. Around these behaviors there are a wide range of other actions that range from their involvement in hunger strikes to human organ trafficking (Fig. 16.1).

Under these new circumstances, medical doctors and other health practitioners have become a necessary part of the process to render torture invisible, and to keep society blind to it. Medical torture has made it possible to pass from evidence to incidence, that is, to reduce evidence of torture and to present these aggressions as "incidents", as if they were outside the system. And it has been done especially in countries where scars and evidence are a problem for governments and institutions; in other countries the traditional torture methods are still used.

Modern societies are built on new elements related to globalization, population diversity, individualism, use of ICTs, materialism and immediacy. Under this context the concept of conflict, traditionally established on objective factors, has changed so as to be considered according to subjective perceptions, generating the idea of risk and threat.

Within these circumstances any suspect can be considered as an enemy, not because of his or her objective features, but because he or she can be potentially dangerous based on the theoretical framework used to consider him or her as "suspect". Due to this virtual potentiality, suspicion is provided by circumstances, not by persons, and when the social context is considered risky anyone can be classified as "suspect" and, consequently, as an "enemy". Under this atmosphere

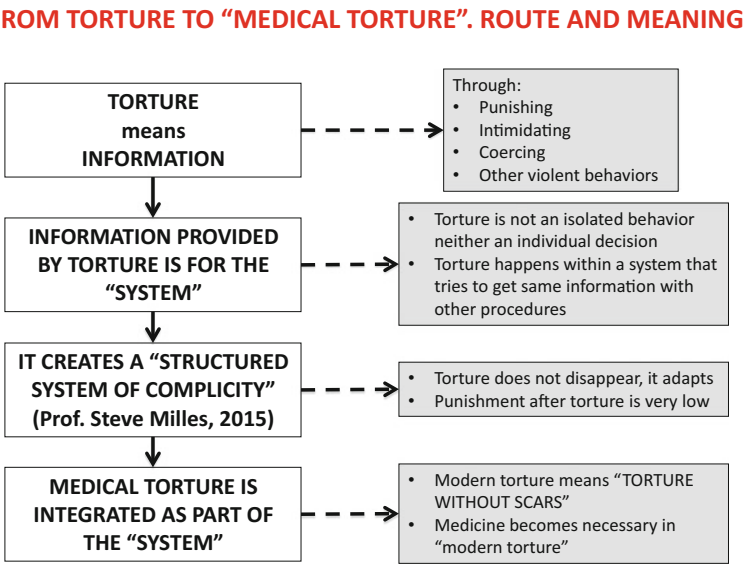

Fig. 16.1 From torture to "Medical Torture". Route and Meaning

torture is presented by a number of people as a necessity to combat the unknown threat, because it can change and become a real danger at any moment.

This approach provokes many mistakes, since it is based on an initial error that considers that the perception of certain circumstances is enough to conclude that there is a real risk situation. To conduct an investigation under these references, when there are no objective elements or evidence, interrogatory techniques aimed at proving what investigators suspect only is in the suspect's mind need to be carried out, and these interrogations often become torture procedures. In this context, to avoid criticism from society and conceal the mistake, it is necessary to erase the signs of these behaviors, which entails hiding torture through new strategies and procedures that make it possible to achieve the related goals without leaving evidence.

Modern torture requires the assistance of medicine in order to avoid scarring, to design procedures and tactics to exploit prisoners' weaknesses and vulnerability, and to falsify certificates and reports when cases are investigated. The consequences of medical torture are twofold:

1. The involvement of doctors in torture allows it to be conducted using methods that are difficult to discover and investigate.
2. Medical authority helps to sustain torture. The participation of doctors usually confers an aura of legitimacy and can create an illusion of therapy and healing. The presence of doctors can transmit the idea that "everything is under control", and that nothing serious is going to happen with the prisoners. And at the same time, it can give the prisoner a feeling of confidence and trust in the doctor that will finally be undermined and contribute to a deeper mental impact.

It is necessary to break this context of justification and impunity towards torture and torturers, and this means working on accountability and prevention (Fig. 16.2).

BEHAVIORS AND CONSEQUENCES OF "MEDICAL TORTURE"

1. BEHAVIORS

1.1. The involvement of medical personnel in acts of torture, either

- To judge what victims can endure
- To apply treatments which will enhance torture
- To devise torture techniques (i.e. "rectal water infusions")

1.2. It is also related to the using of medical expertise

- To facilitate interrogation or corporal punishment
- To conduct torturous human experimentation
- To provide professional medical advise
- To approve the torture of prisoners

2. CONSEQUENCES

2.1. Difficult to investigate

- Due to the absence of scars and signs
- There is a "certificate" that says *"everything is correct"*

2.2. Doctors participation confers

- Aura of legitimacy
- The idea that *"everything is under control"*
- Deeper mental impact on victims

Fig. 16.2 Some behaviors and consequences of "Medical Torture"

Torture is possible because of impunity, and impunity in torture is possible because it is part of the structured system of complicity and power.

In the words of Steven H. Miles [4, 5] the partnership between torturers and physicians can be summarized as follows.

- Physician involvement in torture coextends with the global practice of torture.
- Physicians play key roles in designing, implementing, monitoring, and concealing torture.
- Lack of accountability for physician torturers is the norm. Licensing boards rarely revoke or suspend licenses, medical associations rarely censure, and courts rarely convict the torturing doctors.
- Major medical associations do not offer standards or model procedures for holding torture doctors accountable.
- Accountability, although rare, is becoming more common because of pressure arising outside of the medical profession.

The field of medicine and doctors should not be part of this system. It is true that most doctors are not part of it, but it is not enough. To know that some doctors use medicine to torture demands a clear positioning of medical associations and medical institutions against it, and a consequent response in these terms.

Since Hippocrates, one of the principles of medicine is "do no harm", and it should be understood also as "do no harm, and do not allow others to inflict harm in the name of medicine".

Reality is a result, not an accident. Torture and medical torture is part of reality, not an accident. It means that it is the result of persons making decisions within the system, taking all the measures needed to achieve their goal and avoid being

discovered, by changing and adapting torture procedures and involving medical doctors and other health practitioners.

It is therefore necessary to work on accountability and prevention in order to change this context and to contribute to the eradication of medical torture.

16.2.1 Accountability and Torture

- National medical associations must endorse strong standards against physicians complicity, such as WMA's Declaration of Tokyo and others [6, 7].
- Medical organizations and institutions should work to facilitate and implement documents, instruments (guidelines and casebooks to show courses and medical boards how to convene and conduct cases against doctors who are alleged to have tortured, and web portals to enable persons to report allegations of physicians complicity with torture to the authorities…) [8–10].
- National medical associations should support legislation and policies to ensure that state-licensing boards may restrict or revoke licenses for war crimes and torture even without criminal conviction, because they constitute unprofessional conducts.
- International Academy of Legal Medicine (IALM) and national forensic and legal medicine associations should develop a strategy and training on torture medicine, the procedures to investigate it under the Istanbul Protocol references, and create teams and protocols to investigate reported cases in the field [11–14].

16.2.2 Prevention and Torture

Accountability and punishment are part of prevention, but prevention needs to go further and start earlier (Fig. 16.3).

There are many things that must be done. One of them is to change the mentality of doctors and their ideas about their role in society, and it implies a different approach in Schools of Medicine learning.

Traditional teaching of medicine is focused on individual medicine and addressed to approach clinical questions. This approach leaves out or places in a secondary position the role of social medicine and all the issues related to the commitment of medicine with society in terms of public health, but also that of social wellbeing.

Medical students and doctors, independently of their clinical specialty, must learn about the social dimensions of medicine and how medicine is included in the social structures of power, and can be used in different ways to maintain these structures, as we saw when we talked about "scientification of sexuality".

In this sense, medicine can be used to conduct illegal behavior, such as torture, or can be used to contribute and reinforce the preservation of democratic freedom and values through the responsibility of doctors for Human Rights. If health means

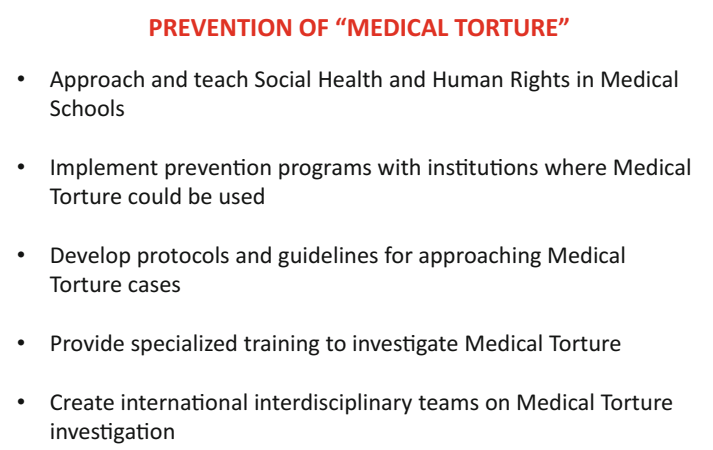

Fig. 16.3 Prevention of "Medical Torture"

public health, and "public" refers to society, then medicine has a responsibility for social health and Human Rights that need to be taught in the Schools of Medicine. Later on, it will be too late to learn such values and to understand their meaning and importance. In these circumstances it is possible to transmit knowledge and concepts, but not values; and democracy is based on concrete values, such as Liberty, Equality, Dignity, Justice… not only in their expression.

Medical torture is a question of ethics, but it is not only an ethical question. It is also a question of responsibility and professionalism, and we should act in consequence and start with prevention from our Schools of Medicine.

16.3 Conclusions

1. Medical torture has been part of torture through history, especially during the last decades.
2. Torture is not an accident neither an uncontrolled behavior, it is part of a strategy developed from "social structures of power", and medical associations and medical institutions should approach it firmly and proactively.
3. Modern torture needs a close involvement of doctors to get its goal ("information without scars"), especially in developed countries.
4. Accountability of medical torture and punishment of the doctors involved is a key element to eradicate it.
5. Prevention should be approached globally. It implies to increase and improve the teaching of social medicine in the Schools of Medicine, making the students understand the role of medicine in the preservation of democratic values and their responsibility for Human Rights.

6. Prevention also needs to act on society and State institutions to make disappear the circumstances and context used by torturers. Without transparency torture will continue acting from darkness.
7. IALM and Forensic and Legal Medicine Associations should elaborate documents on medical torture, to perform specialized training, and create international teams and protocols to approach and investigate the reported cases under national or international organizations.
8. IALM should work and collaborate to establish an interdisciplinary forum and space to deal with medical torture and other ethical issues related to Legal and Forensic Medicine.

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