TORTURE AND ITS DEFINITION IN INTERNATIONAL LAW

An Interdisciplinary Approach

Edited by

METİN BAŞOĞLU

OXFORD

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Istanbul Center for Behavior Research and Therapy (DABATEM)

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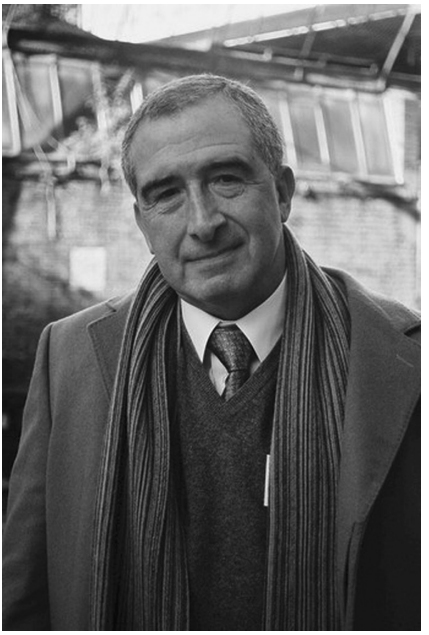
"Power is in inflicting pain and humiliation. Power is in tearing human minds to pieces and putting them together again in new shapes of your own choosing. Do you begin to see, then, what kind of world we are creating? It is the exact opposite of the stupid hedonistic Utopias that the old reformers imagined. A world of fear and treachery and torment, a world of trampling and being trampled upon, a world which will grow not less but MORE merciless as it refines itself. Progress in our world will be progress toward more pain."

1984, George Orwell

Dedicated to all sufferers of pain, helplessness, and hopelessness

In memory of Sir Nigel Rodley



In late January 2017, just as this volume was being finalized, we learned that one of the experts who initially came together to launch this project, Sir Nigel Rodley, passed away. His death is a great loss to the human rights community, particularly those engaged in combating torture.

In his position as legal adviser to Amnesty International (1973-1990), Sir Nigel successfully pushed, among other things, for the international community to develop universal instruments against torture, which culminated in the adoption of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Among many other things, he also pioneered Amnesty International's initially controversial position of totally opposing the death penalty.

Upon leaving Amnesty International, Sir Nigel then became a leading academic, chairing the Human Rights Centre at the University of Essex for many years and, as Professor of Law, teaching human rights to thousands of students, many of whom later became human rights activists throughout the world. One of his numerous publications, The Treatment of Prisoners Under International Law, is an indispensable tool for anyone dealing with the legal issues surrounding torture, prison conditions, and related topics, and has to date been published in three editions. However, alongside academic work, he continued to work as an international human rights expert, serving, among many other capacities, as UN Special Rapporteur on Torture (1993-2001) and member of the UN Human Rights Committee, which he chaired from 2013 to 2014.

Sir Nigel was a fountain of knowledge and wisdom to his colleagues, students, and fellow academics. He would not hesitate to criticize sharply, especially where he suspected an attempt to cut intellectual or legal corners. However, he was always ready to help, generous in his praise, and unflinching in his dedication to human rights. He will be sorely missed. This book is dedicated to his memory.

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PREFACE

The United Nations Convention Against Torture defines torture as infliction of severe physical or mental pain or suffering for certain purposes with some form of official involvement. Although this convention, originally drafted with state-perpetrated torture in mind, has been widely accepted internationally, various aspects of the definition, as well as its increasingly broader interpretation in international law, have been the subject of much debate over the years. The issue of what constitutes torture has also attracted much media and public interest with "enhanced interrogation" of detainees held in US Custody after 9/11. Much of the media and public debate on definitional issues has not been sufficiently informed by science and reflects various misconceptions about torture.

This book represents an interdisciplinary effort to shed some light on definitional issues surrounding torture. It brings together a group of prominent scholars of behavioral sciences, international law, human rights, and public health with internationally recognized expertise and authority in their field. The book is conceived as a collaborative effort among the authors, rather than as a mere compilation of independent chapters. It presents behavioral science and international law perspectives on torture in an effort to identify definitional issues on which they converge or diverge. In the process, it explores the scientific basis of current interpretations of torture in international law.

The behavioral science perspective includes a learning theory formulation of torture, which points to "helplessness under the control of others" as a defining element of torture. Because this formulation draws on empirical evidence regarding common cognitive and emotional responses to torture, it can be said to represent a survivor perspective on what torture is. Also reviewed in the book are the contextual and definitional commonalities between torture and other forms of violence in different contexts, such as domestic settings and prisons.

The book targets a wide readership with its focus on a behavioral formulation of torture and what it might imply for an understanding of torture from the perspectives of international law, human rights, medical, public health, social and political sciences, and moral philosophy. Because it clarifies various common misconceptions about torture in its theory- and evidence-driven contextual approach to torture, it might be of interest to policymakers, as well as to the media and the public in general. Its behavioral formulation of torture, which has led to the development of highly effective psychological interventions for survivors, might be useful to all care providers for trauma survivors.

I would like to express my gratitude to the contributing authors, not only for taking time from their busy work schedule to contribute a chapter, but also for attending a meeting in Istanbul in the very beginning of the project to discuss the scope and contents of the book. Their input has been very useful to me in understanding the complexities of legal thinking behind the definition of torture in international law and organizing the contents of the book. Bringing law and science together in the same book to examine how science can inform law is a challenging task that requires an adequate understanding of both disciplines. As a behavioral scientist, I could not have undertaken such a task without their help.

The chapters I have authored in this book draw largely on findings and insights gained from more than 40 studies of war, torture, and earthquake survivors conducted by our research group since the early 1990s. All this work has been made possible by my good friend Marianne Gerschel, President of Spunk Fund, Inc. and Spunk Fund International, who has always been there to support our work throughout its various stages, including the preparation of this volume. In acknowledgments of this kind, one often sees reference to certain persons "without whose help this work would not have been possible." This common expression finds its literal meaning in her loyal support of our work for more than two decades. I am most grateful to her for standing by me at every stage of my work, taking part in shaping research ideas and providing moral support in difficult times.

I am also indebted to Bromley Trust for supporting our work for 16 years and to more than 60 colleagues internationally, who took part in our studies. I am grateful to Ebru Şalcıoğlu and Maria Livanou for their invaluable contributions to our research program on all levels as my coworkers over the years. I am also grateful to Susan Mineka for providing me with valuable insights into learning theory, which proved useful not only in understanding the psychology of torture but also in developing an effective psychological treatment for survivors. Special thanks are

due to my good friend, Orhan Taylan, a celebrated Turkish painter, who kindly allowed me to use his paintings reflecting his own experience as a political prisoner in the early 1980s as a front cover image in all my three books on torture to date.

Finally, I owe thanks to Christopher Reid, Lani Oshima, and Andrea Knobloch as Editors of Medicine and to Courtney McCarroll and Allison Pratt as Editorial Assistants at Oxford University Press New York for their assistance during the various stages of preparing this book. Christopher Reid was the first editor to contact me with the idea of a book on torture. I owe him special thanks for his strong support for the project, particularly during the peer review process.

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INTRODUCTION

Torture is without doubt a difficult concept to define. In his review of the various definitions proposed by various legal historians and lawyers since the 13th century, Peters (1985) noted that "all find one common element in torture: it is torment inflicted by a public authority for ostensibly public purposes" (p. 3). This long-standing view is also reflected in the contemporary definition of torture in the United Nations Convention Against Torture (UNCAT; UN General Assembly, 1984):

> For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him 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.

Although this definition, originally drafted with state-perpetrated torture in mind, has been widely accepted internationally, controversies about its various elements and whether or how it can be applied to ill-treatments in settings other than official custody have continued to date. In the early phases much controversy surrounded certain phrases, such as "torture means any act," "severe pain or suffering," "physical or mental," "for such purposes," "public official," and "does not include pain or suffering only from lawful sanctions" (Miller, 2005). The "lawful sanctions" clause, one of the most controversial elements of the definition during the drafting of this definition, still remains highly controversial (Nowak & McArthur, 2008). The 1990s saw much debate on whether gender-based violence

should come under the definition (Davis, chapter 11). In the early 2000s the distorted interpretation of torture by the US government triggered a protracted debate on whether "enhanced interrogation techniques" constitute torture. Among other issues of debate was the expansion of the definition to include certain ill-treatments in other institutional settings, such as compulsory detention for medical treatment, violations of reproductive rights, denial of pain treatment, and various forms of ill-treatment experienced by persons with psychosocial disabilities and some marginalized groups, including LGBTI persons, persons who use drugs, and sex workers (UN Human Rights Council, 2013).

Defining torture has traditionally been considered as a primarily legal matter falling into the domain of law. Torture, on the other hand, is a traumatic event, and like any other trauma, it has a psychological impact. Therefore, it is not possible to define torture without reference to "pain or suffering"—a construct that falls primarily into the domain of behavioral sciences. Furthermore, it is not possible to define torture in ways that afford maximum protection for people without an adequate understanding of the psychology of torture and the contextual processes through which it induces "severe pain or suffering." Although behavioral sciences have much to contribute to such an understanding, much of the debate on torture over the last few decades has not been sufficiently informed by behavioral sciences for various reasons. This book represents an effort to contribute to both the legal and public understanding of torture by presenting a psychological formulation of torture based on sound theory and evidence. It brings together behavioral science and international law perspectives on torture with a view to examining their commonalities and differences in understanding torture and reviewing the ways in which behavioral sciences can inform international law on this issue.

BACKGROUND

Several considerations prompted the preparation of a book on torture and its definition. I should first acknowledge the role of Oxford University Press New York in providing the initial impetus for this project. When they contacted me in January 2013 to ask if I would edit a book on torture, I thought what the field needed was not yet another book on the consequences of torture but one that promotes a sound theory- and evidence-based understanding of torture.

In addressing the question, "Why study torture?" in my 1992 book on *Torture and Its Consequences: Current Treatment Approaches* (Başoğlu, 1992),

I had argued that torture is not a human rights problem confined to remote dictatorships and that no political system or ideology can claim immunity from human rights violations. I had also noted that more sophisticated and psychological methods of torture are likely to be developed as international pressures against torture gain momentum. These predictions unfortunately turned out to be true with the events that unfolded after 9/11. The "war on terror" raised serious human rights issues concerning the treatment of detainees by the United States and its allies. Whether "enhanced interrogation techniques" constitute torture became the subject of considerable debate in both the world media and the public after the distorted interpretation of torture in the "torture memos" of the US government. Much of this debate was not sufficiently informed by science and reflected various misconceptions about torture on both sides. In an effort to bring a scientific perspective on this debate, we published a research article (Başoğlu, Livanou, & Crnobarić, 2007) to evidence the point that "interrogation techniques" of the "enhanced" kind are no less severe in their immediate and long-term mental effects than physical torture. In the absence of such research evidence at the time, this finding received wide attention from both the human rights community and the world media, confirming my long-held belief that scientific data can serve as a useful form of advocacy against human rights violations in shaping media and public opinion and thereby bringing pressure to bear upon governments. Following the publication of this article, I received numerous requests from both the human rights community and the world media either for information or research evidence in relation to particular techniques, such as "waterboarding" or sleep deprivation, among others. Because such exclusive focus on individual methods in total disregard for contextual processes in a captivity setting reflects a rather restrictive understanding of torture, I published another research article (Başoğlu, 2009) two years later to demonstrate the importance of a contextual and cumulative approach in understanding what torture is. Because misconceived notions about torture not only can lead to errors in judgment but are also open to potential abuse, I thought that a book expanding on these two articles and clarifying further what torture is from a psychological perspective might be useful in dispelling various misconceptions.

A behavioral science perspective on torture can also inform international law in addressing various difficult questions raised by the criterion of "severe pain or suffering" in the definition of torture. For example, what are the psychological processes that account for "severe pain or suffering"? Is there a justifiable distinction between "mental" and "physical" pain or suffering? What are their relative contributions to "severe pain

or suffering"? What role do contextual factors in a captivity setting play in "severe pain or suffering"? How can "severe pain or suffering" be conceptualized, defined, operationalized, and assessed in ways so as to afford maximum protection for people? It is difficult to address these questions without recourse to empirical evidence based on reliable assessment methodology. Without such evidence, any estimation of severity of pain or suffering would be based on subjective and therefore error-prone judgments, particularly in cases that fall into the gray area between ill-treatments recognized as torture in and of themselves and other ostensibly "low-intensity" ill-treatments.

A behavioral science approach to definitional issues can also be helpful in testing the validity of certain assumptions implicit at least in the text of the UNCAT. Just to cite an example, Article 16 refers to cruel, inhuman, or degrading treatment (CIDT) as acts that do not "amount to torture," the implication being that torture is a more severe form of CIDT. This is a testable hypothesis and our 2007 and 2009 studies cited earlier found no such distinction, thus supporting the trend away from such a severity distinction in interpreting the definition. Furthermore, an expansion of legal understanding of torture beyond ill-treatments under official custody implies a growing recognition of the fact torture is a broader concept than previously understood. A theory- and evidence-based formulation of torture can test the scientific validity of such broader understanding of torture and point to new directions in this respect.

A THEORY- AND EVIDENCE-BASED APPROACH IN UNDERSTANDING TORTURE

A good understanding of torture as a trauma requires first and foremost a sound theoretical framework. Among the different theories available for this purpose, contemporary learning theory (see Mineka & Zinbarg, 2006) is the one that has been most extensively tested and empirically validated. Since the 1960s, substantial experimental work, such as inescapable shock experiments with animals (involving giving electric shocks to an animal placed in a box while not allowing any means of stopping the shocks), showed that unpredictability and uncontrollability of stressor events are associated with anxiety and fear, which lead to certain associative, motivational, and emotional deficits that closely resemble the effects of traumatic stress in humans. These deficits include "learned helplessness"—a phenomenon characterized by failure of animals initially exposed to uncontrollable shocks to later learn to escape or avoid shocks that were

potentially controllable in a different situation (Seligman & Maier, 1967; Overmier & Seligman, 1967).

Much of the work that led to the concept of learned helplessness stemmed from animal experiments, so its relevance to humans was largely uncertain until the 1990s. In the late 1980s we conducted a series of in-depth interviews with torture survivors to examine the parallels between animal responses to inescapable shock and human responses to torture. The similarities between animal and human responses to uncontrollable stressors were indeed striking. Based on evidence gleaned from these interviews, Susan Mineka (a prominent learning theorist and former student of Seligman) and I proposed a learning theory formulation of torture (Başoğlu & Mineka, 1992). This formulation implied two main hypotheses: (1) torture-induced traumatic stress is closely associated with *unpredictability* and *uncontrollability* of stressor events experienced during captivity; and (2) if torture-related traumatic stress is mediated by helplessness anxiety or fear, then psychological interventions designed to enhance sense of control over traumatic stressors would reduce traumatic stress.

During the years that followed publication of this work, we conducted more than 40 studies to test these two hypotheses. This work was carried out in four stages. The first stage involved a series of consecutive studies with a total of 202 individuals tortured for political or nonpolitical reasons in the context of a politically repressive military regime in Turkey in the early 1980s. The first study (Başoğlu et al., 1994) examined the psychological effects of torture using a controlled design, whereas others (Başoğlu, Paker, Taşdemir, Özmen, & Şahin, 1994; Başoğlu & Paker, 1995; Başoğlu et al., 1996; Başoğlu et al., 1997; Başoğlu, 2009) explored various factors associated with mental outcomes, including the unpredictability and uncontrollability of stressor events experienced during detention or imprisonment.

The second stage involved a multisite study of 1,358 war survivors in former Yugoslavia countries (Bosnia Herzegovina, Republica Srpska, Serbia, and Croatia) in the mid-1990s (Başoğlu et al., 2005). The sample consisted of five subgroups selected in accordance with five "index" traumas of primary interest to the study: combat, torture, refugee status, internal displacement, and aerial bombardment (of Belgrade by the NATO). The tortured group included 279 survivors. In addition to mental outcomes of various forms of war trauma, this study also examined the impact of trauma on beliefs about safety, justice, trust, war cause, and religion, as well as cognitive and emotional responses to perceived impunity for those held responsible for trauma and their association with traumatic stress reactions.

By the end of the 1990s we had gathered sufficient evidence on the critical role of loss of control or helplessness in traumatic stress and were ready to test the second hypothesis concerning effective treatment. Our research program had evolved into its third stage when Turkey was struck by two major earthquakes in 1999. These earthquakes provided an opportunity to test the same two hypotheses with natural disaster survivors, with particular emphasis on the second one so that we could develop an effective psychological intervention for survivors, as well as a mental health care model that would enable wide dissemination of treatment in the most cost-effective fashion. This stage of our work involved about 30 studies, ranging from case studies, field surveys, and epidemiological studies to randomized clinical trials, ultimately leading to the development of a highly effective psychological intervention designed to reduce traumatic stress by enhancing sense of control, thus named Control-Focused Behavioral Treatment (CFBT; Başoğlu, Livanou, Şalcıoğlu, & Kalender, 2003; Başoğlu, Livanou, & Şalcıoğlu, 2003; Başoğlu, Şalcıoğlu, Livanou, Kalender, & Acar, 2005; Başoğlu, Şalcıoğlu, & Livanou, 2007; Başoğlu & Şalcıoğlu, 2011). In 2010 we launched a treatment study with asylum-seekers in Turkey, which showed that CFBT is also highly effective in treating war and torture trauma (Şalcıoğlu & Başoğlu, in preparation). This process represents the fourth and current stage of our work, the scope of which was recently expanded to include domestic violence. In the course of 25 years, our work involved more than 7,000 mass trauma survivors. A large part of this work was published in our book, *A Mental Healthcare Model for Mass Trauma Survivors* (Başoğlu & Şalcıoğlu, 2011).

Although our studies related to different types of trauma, they were all unified around the same theoretical framework, tested the same two hypotheses, and employed essentially the same methodology. As such, they represent a rather unique series of studies. They were all interrelated in the sense that a study of a particular form of trauma informed our understanding of another type of trauma. For example, it was the findings from our studies of torture in the early 1990s that ultimately led to the development of CFBT with earthquake survivors 10 years later. Similarly, the insights we gained into earthquake trauma in the early 2000s informed our current work aimed at developing self-help treatments for war and torture survivors and cost-effective methods for their dissemination to masses of survivors. Thus, the entire scope of our 25 years of research summarized in this book not only sheds some light on definitional issues around torture but also provides important insights into effective treatments for torture trauma.

Much of the empirical evidence presented in the book in support of a learning theory formulation of torture draws on our own studies. It is important to note here that this does not reflect a disregard for other research on torture in the field. Although much research has been published since the 1970s, most studies have focused on documenting its health effects. Although these studies have been very valuable in raising public awareness of the problem and providing support for human rights efforts against torture, their relevance to a psychological analysis of what constitutes torture and why is limited for various methodological reasons. First, and most important, most studies have not explored the mechanisms of traumatic stress in torture trauma using an empirically testable theoretical framework. Consequently, many studies, particularly the early ones, have not contributed much to a theoretical understanding of torture beyond its simplistic description as acts designed to "destroy the victim's personality." Second, most studies have not been conducted with the specific aim of addressing definitional issues and, as such, have not used a sufficiently sophisticated methodology required for study of these issues. Third, most studies have examined the effects of torture in refugees, thereby not avoiding the confounding psychological effects of refugee status. Fourth, they have focused on individual forms of torture, disregarding the complex contextual processes that play a significant role in determining both the cumulative impact of torture and the relative psychological impact of particular torture methods. This problem also reflects their atheoretical approach to torture. Fifth, most studies have relied on measures of the "objective" rather than "subjective" severity of torture, disregarding the fact that the severity of torture as perceived by a person plays a more important role in traumatic stress. Sixth, they have not attempted to conceptualize, define, operationalize, and measure the concept of "pain or suffering" central to all definitions of torture, a process essential for testing definitional assumptions or hypotheses. Seventh, they have not attempted to assess the relative severity of "mental pain or suffering" associated with different torture methods, whether involving physical pain or not, using both objective and subjective measures. Eighth, most studies have not examined the complex interactions among various captivity stressors using sufficiently sophisticated methodology (such as multivariate statistical techniques), which is essential in understanding the cumulative impact of torture. Finally, the complex and differential associations between exposure to various stressor events and long-term psychological outcomes have received relatively little attention.

The reasons for the relative scarcity of studies that help us understand the psychology of torture are complex and beyond the scope of this book. Suffice it to say, however, that research on torture and its treatment has lagged behind progress in the field of psychological trauma in general, as repeatedly pointed out in our publications over the years (Başoğlu & Marks, 1988; Başoğlu, 1992, 1993, 2006; Başoğlu & Şalcıoğlu, 2011). Although our studies, some conducted well before 9/11, were not specifically aimed at examining definitional issues, their assessment methodology, which was designed to explore mechanisms of traumatic stress during captivity with a view to developing an effective psychological treatment, turned out to be quite useful in addressing these issues, as demonstrated by our 2007 and 2009 articles, as well as by this book.

PREPARATION OF THE BOOK

In keeping with its aims, this book brings together prominent scholars from various disciplines, including international law, public health, human rights, and behavioral sciences. The book was conceived more as a collaborative effort among the authors than a mere compilation of independent chapters. Accordingly, the contributing authors had a two-day meeting in Istanbul in 2013 to discuss the scope and contents of the book. This meeting was very helpful in providing an idea about the important issues that needed to be covered and demonstrating issues of potential agreement or disagreement.

As an important aim of the book was to examine the extent to which scientific and legal perspectives converge or diverge on definitional issues, the different parts of the book needed integration with each other. Accordingly, all authors were given an opportunity to read the other authors' chapters before writing or finalizing their own chapters, so that they could review and comment on the content and conclusions of other chapters.

The book consists of four parts. Part I includes seven chapters that present a *behavioral science perspective* on torture. Part II consists of four chapters that present *international law perspectives* on the definition of torture. Part III consists of chapters by a mixed group of international law, human rights, public health, and mental health scholars that provide an account of the US experience with torture in the aftermath of 9/11 and discuss definitional issues around "enhance interrogation techniques." Part IV consists of a single chapter (by the editor) that addresses the comments by international law scholars on the behavioral science perspective on torture.

WHY REVISIT US EXPERIENCE WITH "ENHANCED INTERROGATION TECHNIQUES"?

The US experience with "enhanced interrogation techniques" has been given special attention in this book for two important reasons. Most important for the purposes of this book is the fact that there is much to learn from the Central Intelligence Agency's (CIA's) interrogation methods in understanding and defining torture from a psychological perspective. As noted earlier, the learning theory formulation of torture posits that helplessness induced by uncontrollable stressors is the defining element of torture. Among the "methodologies" of torture used around the world, "enhanced interrogation techniques" are the ones that best illustrate this element because they are designed in accordance with the same theoretical formulation of torture presented in this book. It is indeed no coincidence that the CIA had a keen interest in Seligman and his associates' concept of "learned helplessness" and employed psychologists to "enhance" their interrogation techniques through the use of this concept. Although the term "enhanced interrogation techniques" is a euphemism used as a disguise for torture, it carries an important element of truth in that these techniques are literally enhanced in their psychological impact through the use of this concept. This is because helplessness is the core defining element of torture from a psychological point of view. These techniques are essentially derived from the CIA's Kubark manual, which makes this key element of torture amply clear. In a sense they could be regarded as a "distilled" version of Kubark techniques in excluding some blatantly objectionable methods but retaining the relatively subtler but nonetheless the most effective psychological elements of torture. As such, they serve as a useful template that helps us better understand the psychology of torture. This is also the reason that a chapter was devoted to a learning theory analysis of the Kubark manual. As argued and demonstrated throughout the book, it is neither possible to understand nor to define torture in whatever form and context it might take place without recourse to the concept of helplessness. Ironically perhaps, the very same concept that the CIA used to enhance its "interrogation techniques" also helps us understand how best to treat torture trauma. Thus, a focus on this issue is also intended for a better understanding of torture by care providers for survivors.

Second, the United States is a major power with substantial capacity to influence the rest of the world in many areas, including policies concerning human rights. Its foreign policies and the position it adopts on human rights can not only have a direct impact on people around the world but also set an example for other nations. In my opinion, its position after 9/11 in

allowing torture under the disguise of "enhanced interrogation techniques" represents a setback for human rights movement globally. The second half of the 20th century had seen some progress in at least achieving wide recognition of the immorality of torture in the world community. With the "war on terror," however, we have seen challenges to international law with distorted interpretations of torture, euphemisms such as "enhanced interrogation techniques," invention of the concept of "torture lite," and endless debates on "ticking bomb" scenarios or whether torture works, all of which serve to erode moral values against torture in the service of various political agendas. However short-lived it might be, the U.S. experience with torture in the early 2000s is merely a symptom of the progressive "disease" called globalization and thus a sign of worse things to come. International law prohibiting torture might still be standing firmly in its place, but it can be effective only to the extent governments are prepared to abide by it, as the US experience has demonstrated. Governments are most vulnerable to public opinion, both nationally and internationally, and thus a fight against human rights violations is best conceived as a fight for world public opinion. The US experience with torture has been most useful in revealing various disinformation strategies designed to shape public opinion and what needs to be done to counter them. Thus, a focus on "enhanced interrogation techniques" as a useful template in understanding torture is also intended as a means of clarifying public misconceptions, which might perhaps be of some value in reinforcing moral values against torture not only in the US but also globally.

CHALLENGES IN RECONCILING LAW WITH SCIENCE

When the publishers sent my proposal for this book for peer review, some reviewers were critical of the idea of an interdisciplinary approach to torture, pointing to the difficulties in bringing law and science together around a common understanding of torture. The differences between legal and scientific thinking around definitional issues indeed became evident at the very first meeting of the authors, leading to heated debates over various issues. This meeting left me plagued with certain questions that are difficult to address to everyone's satisfaction. Can the normative nature of legal thinking be reconciled with scientific reasoning and evidence in understanding torture? Do they need to be reconciled in the first place? If so, how can this be achieved, when there are disagreements on various issues? Should one perspective prevail over the other, when disagreements cannot be resolved, and if so, for what reasons? Having pondered a great deal over these issues

during the four years of preparing this book, I finally arrived at the obvious and simple conclusion that law and science can and should agree at least on the fundamental principles of morality, which dictate maximum protection for people. Such protection requires a legal understanding of torture that is comparable to its psychological formulation in its coverage of torture in different contexts and settings. Through normative thinking or moral reasoning, one could define or interpret torture in any way one sees fit. But can it capture torture in every context, shape, form, or disguise it comes? This is indeed the important question from the standpoint of people who suffer from it. Behavioral sciences, on the other hand, deal with universals in human behavior and thus have much to contribute to a legal understanding of torture in ensuring maximum protection.

In the process of preparing this book, I became increasingly aware of the extent to which international law has evolved beyond state-perpetrated torture to recognize torture in different settings and contexts. Such broader understanding of torture is detailed in the chapters by Juan Méndez and Andra Nicolescu, Nora Sveaass, and Yuval Ginbar. Lisa Davis tells us the story of this evolution with respect to gender-based violence. This trend is fully consistent with the psychological formulation of torture presented in the first part of the book. The increasing convergence between legal and psychological understandings of torture in the last few decades is arguably one of the most important findings of this book.

Nonetheless, legal and psychological perspectives on torture differ in some other ways, and thus objections to some conclusions about what a psychological formulation might imply for legal interpretations of torture can be anticipated. Indeed, some disagreements have already been voiced in this book. Most important, it could be argued—and quite rightly so—that the broader understanding of torture implied by a learning theory formulation would pose problems in its implementation. I am of course aware of the sociopolitical realities of the world and of the fact that such understanding can only evolve with increasing demands for higher levels of protection and an increasing respect for human rights globally. Furthermore, this is likely to be a gradual process, spanning decades or perhaps even centuries. Such evolution, however, can only be possible with increased awareness of the true breadth of the concept of torture, and this is indeed what this book attempts to achieve by offering a scientific formulation of torture. After all, laws reflect the norms and moral values of their time and change over time as these norms and values evolve. Science, on the other hand, deals with "facts," which remain as such over time, at least until proved otherwise. In this sense this book is also intended for future generations to come, and therefore, it is important to view its purpose in this context.

It is also important to note that, as both the editor and an author on five chapters of this book, an assessment of what a psychological formulation of torture might imply for international law has been a particularly challenging exercise for me as a behavioral scientist without sufficient insights into the labyrinthine intricacies of legal thinking that go into deciding what constitutes torture. On some legal issues, I felt confident enough to present critical reviews. On others, I refrained from such reviews when I thought that I might be overlooking important factual information about international law. I tried my best to minimize this risk, but the success of this cautionary effort remains to be seen. In any event, this book should be seen as an effort to propose a theory- and evidence-based approach to torture in the understanding that law professionals are in a better position to assess what it might imply for the wide range of legal issues around torture, some of which may not even be covered in this book. I should also emphasize here that my critical reviews are not intended as an argument in favor of a new or revised definition. They might, however, imply a need for revised understanding of various issues pertaining to torture in the light of relevant empirical evidence.

Finally, the learning theory formulation of torture presented in this book can be traced back to my 1992 book and the publications that followed, all of which were severely criticized by some for "medicalizing" and "diluting" the concept of torture. Yet, within the time frame of only a few decades, the understanding of torture in international law has evolved to come closer to this formulation and will likely continue to do so with increasing awareness of the true breadth of the concept of torture. As such, I cannot help seeing this development as a vindication of my work since the early 1990s and its implications for international law. Nonetheless, objections to a broader understanding of torture are still to be expected. In highlighting what torture is from a psychological perspective, this book should make it clear that torture in different settings or contexts is no less severe or morally repugnant than torture during detention or imprisonment. Chapter 5 on domestic violence, which is intended as a "case study" of one of the many forms of torture taking place in different settings, demonstrates the fallacy of this kind of argument. Furthermore, torture in its psychological sense is far more prevalent than state-perpetrated torture in the world, and protection and care of its survivors are no less important or urgent issues. Thus, critics of a broader understanding of torture need to reconsider their position in the light of a scientific understanding of torture and try to understand what torture really is, particularly from the perspective of all those who suffer from it. Hopefully, this book will facilitate such understanding for them, as well as all others concerned with human rights.

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PREVIEW OF CONTENTS

PART I

Behavioral Science Perspectives

Chapter 1 is the leading chapter that defines the theoretical framework of Part 1. In this chapter I present a learning theory model of trauma, review supporting evidence, provide a definition of "pain or suffering," discuss its contextual determinants in a captivity setting, and describe a methodology for assessment and measurement of its severity. The next section demonstrates a contextual/cumulative approach to captivity stressors associated with "severe pain or suffering" and presents supporting empirical evidence from our studies. This is followed by a learning theory formulation of torture involving two defining characteristics: (1) exposure to an environment characterized by unpredictable and uncontrollable stressors, the cumulative impact of which poses an increased risk for helplessness and hopelessness responses and associated traumatic stress reactions; and (2) such exposure takes place in a setting where the person is under the physical control of one or more persons or occurs as a consequence of actions of others who are in a position to exercise authority or control over the person. The chapter continues with a critique of an individual method-based approach to torture and ends with a review of implications of research evidence for various issues pertaining to the definition of torture in international law, such as the distinction between torture and cruel, inhuman, or degrading treatment (CIDT), torture by nonstate actors, gender-based violence, and emerging trends in interpretation of torture.

The two chapters that follow complement chapter 1 in demonstrating the usefulness of learning theory, specifically the concept of helplessness, in understanding torture. In chapter 2, Hernan Reyes and I present a learning theory analysis of the Kubark Counterintelligence Interrogation

Manual to demonstrate why helplessness is the defining element of torture from a psychological perspective. This analysis is also useful in understanding why "enhanced interrogation techniques" constitute torture. Theoretically, if helplessness is the primary aim of torture from the captors' perspective, then this must be reflected in the captives' psychological responses. This hypothesis is tested in chapter 3 by Alexa Koenig, who provides a detailed account of the experiences of a group of former Guantánamo detainees subjected to "enhanced interrogation techniques." She not only demonstrates the helplessness effects of such treatment but also provides excellent examples of coping responses in the "battle for control" with the captors.

Shame and humiliation are among the most common experiences of torture survivors, and yet the severity of humiliating treatments relative to other ill-treatments recognized as torture has received relatively less attention in empirical research. Research evidence presented in chapter 1 pointing to lack of a severity distinction between physical torture and cruel, inhuman, or degrading treatment requires an explanation, and the answer possibly lies in the evolutionary basis of shame and humiliation. Hence, Kaj Björkqvist addresses this issue in chapter 4 by reviewing the evolution of "social pain" and "social defeat" and their neurophysiological mechanisms in human and subhuman species to help us better understand why humiliating treatments can be as severe as physical torture in their psychological impact.

The chapters so far clarify the defining characteristics of torture from a psychological perspective and demonstrate the usefulness of this theoretical framework in understanding torture with clear elements of purpose, intent, and official involvement. There are, however, forms of violence by private actors, such as gender-based violence, and certain penal procedures, such as deprivation of liberty through imprisonment, that present certain conceptual, contextual, and definitional commonalities with torture. Two chapters are intended as "case studies" to illustrate these commonalties. In chapter 5, Ebru Şalcıoğlu and I briefly review the literature evidence on domestic violence and present evidence from a recent comparative study of torture and domestic violence to demonstrate the commonalities between torture and domestic violence. In chapter 6, Haney and Bakhshay, based on their extensive experience with prisoners in the United States, describe the "normative conditions of confinement" in prisons, review the contextual elements of unpredictability and uncontrollability in prison settings, highlight the extent of "pain or suffering" associated with adverse prison conditions, and provide important insights into the social psychological dynamics of prison settings that account for such suffering.

In chapter 7, the last chapter of Part I, Richard McNally approaches the definitional issues around torture from the broader perspective of psychological trauma in behavioral sciences. He presents an account of how the concepts of psychological trauma and posttraumatic stress disorder evolved in successive versions of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM); reviews the distinction between psychological and physical trauma, the dose-response model of trauma, and the role of guilt and shame in trauma; and points to the implications of current knowledge in the field for various definitional issues around torture.

PART II

International Law Perspectives

The chapters in this section present authoritative reviews of international law pertaining to torture. They review the definition of torture in international law, present an up-to-date account of emerging trends in its interpretation, and thereby provide an idea about the extent of the coverage of various forms of ill-treatment in international law. These chapters also serve as a reference for Part I authors in their review of various legal issues from the perspective of their own disciplines.

In chapter 8, Juan Méndez, the former UN Special Rapporteur on Torture, and Andra Nicolescu present a review of how the international organs of human rights protection gradually incorporated issues like domestic violence and female genital mutilation into the definition of torture or cruel, inhuman, or degrading treatment. Pointing to certain practices applied to persons with mental disabilities, persons who are denied pain relief, persons suffering from drug addiction, and women who seek abortions when legally available that may well constitute torture, he notes that the mandate of the UN Special Rapporteur on Torture extends to situations in which the pain or suffering inflicted is attempted to be justified in terms of medical necessity or therapeutic purposes, if that pain and suffering crosses the line and constitutes torture or CIDT.

In chapter 9, Nora Sveaass, a former member of the UN Committee Against Torture (CAT), provides insights into how the Committee interprets torture and CIDT and the legal mechanisms used in the prevention of torture and provision of redress for survivors. She presents United Nations Convention Against Torture (UNCAT) jurisprudence in different areas, ranging from violence against women, human trafficking, forced prostitution, and female genital mutilation to other practices considered as violations of the Convention, such as involuntary hospitalization of persons

with psychosocial disabilities and acts of torture or other ill-treatment by private actors.

In chapter 10, Yuval Ginbar, legal adviser to Amnesty International, reviews the definition of torture in international law and presents a "common sense" understanding of torture. He describes the main definition-related challenges that Amnesty International has faced in decades of campaigning against torture and other cruel, inhuman, or degrading treatment or punishment, and particularly in recent years. He analyzes these challenges and explains the positions Amnesty International has developed, both in response to these challenges and more broadly to ensure that definitions and concepts of torture and other ill-treatment are interpreted so as to extend the widest possible protection against abuses. He also presents a critical review of the arguments and conclusions in Part I chapters.

The issue of gender-based violence is given more focused attention in chapter 11, where Lisa Davis argues that international law's recognition of certain forms of gender-based violence as forms torture or other CIDT enhances the relevance of the torture framework and strengthens states' mandate to protect. She examines how recognition of the gendered aspects of torture can provide more effective remedies for women and LGBTI people as well as increase accountability for state and nonstate actors. Through an analysis of the international legal framework, she reviews a range of recognized forms of torture or CIDT, including rape, domestic violence, female genital mutilation, and denial of reproductive rights, and comments on the growing trend of including trafficking, "corrective rape," and "honor crimes" within the definition of torture or CIDT as well as concerns in the debate to expand the definition of torture.

PART III

"Enhanced Interrogation Techniques": Definitional Issues

This section is devoted to definitional issues surrounding ill-treatment of detainees held in US custody in the years that followed 9/11. In chapter 12, Eric Stover, Alexa Koenig, and Laurel Fletcher demonstrate how the US government selectively manipulated the medical and health literatures following the attacks of September 11, 2001 to justify the torture and cruel, inhuman, or degrading treatment of detainees. They analyze the Department of Justice Office of Legal Counsel's "torture memos" to illustrate the ways in which governments can attempt to circumvent the

protections offered by existing definitions of torture, even while claiming to operate within legal limits. The authors offer a stark warning about the ways in which research findings can be perverted—and contradicting studies ignored—to justify governments' policy aims when those aims conflict with legal constraints.

In chapter 13, I review the scientific basis for the US definition of torture and its interpretation in the "torture memos" in light of the US Senate Intelligence Committee Report on the CIA's detention and interrogation program, which confirmed the use of "enhanced interrogation techniques" to induce "learned helplessness" in detainees. I argue that "learned helplessness" constitutes "prolonged mental harm" that is severe enough to qualify as torture even by US standards and conclude that the US definition of torture suffers from certain logical inconsistencies, scientifically unfounded assumptions, and even "loopholes" that may well render legal cover for use of "enhanced interrogation techniques" difficult, if not impossible—at least not possible in a way that can be justified by logical reasoning or scientific evidence.

In chapter 14, Manfred Nowak provides a commentary on chapter 13, expressing agreement with my analysis of "enhanced interrogation techniques" and conclusion that learned helplessness is mental harm that is severe enough to qualify as torture even by US standards. He provides a critical review of the restrictive understanding of torture in the "torture memos" and a brief account of his past work on this issue as the UN Special Rapporteur on Torture. He compares the US and UN definitions of torture and notes that both definitions include "powerlessness" as the defining element of torture. On the basis of his interviews with hundreds of torture survivors around the world, including survivors of the US "war on terror," he concludes that treatment that induces fear and mental stress can easily reach the threshold of severe mental pain or suffering and thus amount to torture, even in the absence of other methods of coercion.

In chapter 15 Leonard Rubinstein focuses on medical involvement in administration of "enhanced interrogation techniques." He explores how the medical staff perceived their role in the process as being limited to keeping people alive, rather than preventing severe mental or physical pain, which is at the heart of the definition of torture under the UNCAT as well as the narrower US definition. He concludes that their distorted view of what constituted torture, based neither on an understanding of the law nor on empirical evidence about the experience of torture, proved highly influential in the administration of the CIA's torture program.

PART IV

Discussion and Conclusions

In chapter 16, the final chapter of the book, I address the comments by other authors on the learning theory formulation of torture presented in Part I, discuss the definitional implications of this formulation for deprivation of liberty in adverse conditions of penal confinement, and review the points of agreement and disagreement between behavioral science and legal perspectives on the definition of torture.

PART I

Behavioral Science Perspectives

CHAPTER 1

A Theory- and Evidence-Based Approach to the Definition of Torture

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INTRODUCTION

Experimental work with animals studying the effects of unpredictable and uncontrollable stressors provides useful models for understanding traumatic stress in humans (Başoğlu & Mineka, 1992; Foa, Steketee, & Olasov-Rothbaum, 1989; Foa, Zinbarg, & Rothbaum, 1992). There is much evidence to show that the unpredictability and uncontrollability of stressor events play an important role in the development of anxiety responses (Mineka & Zinbarg, 2006). If given a chance, animals generally show a strong preference for predictable (Badia, Harsh, & Abbott, 1979) or controllable (Mineka & Hendersen, 1985) aversive events compared with unpredictable or uncontrollable aversive events. Exposure to unpredictable and uncontrollable aversive stimuli not only produces generalized fear but also has physiological effects, such as ulcerations in internal organs, changes in levels of cortisol and other neurotransmitters, susceptibility to certain kind of cancer, alterations in immune function, and opiate analgesia (Başoğlu & Mineka, 1992; Foa et al., 1992). Learning deficits similar to the "learned helplessness" effects of uncontrollable stressors in animals (Seligman & Maier 1967; Overmier & Seligman, 1967) have also been reported in experiments with humans (Hiroto, 1974).

The close parallels between animal responses to inescapable shocks and human responses to torture led us to develop a learning theory formulation

of torture in 1992 based on the hypothesis that torture-induced traumatic stress is closely associated with *unpredictability* and *uncontrollability* of stressor events experienced during captivity (Başoğlu & Mineka, 1992). This hypothesis was supported by evidence from our earlier studies of torture survivors in the mid-1990s. As similar evidence became available from further research with other types of trauma, this formulation evolved into a learning theory model of trauma in general (detailed in Başoğlu & Şalcıoğlu, 2011).

In this chapter I present a summary of the learning theory model of trauma and an overview of our studies conducted to explore the validity of the model in various types of trauma, including torture. This is followed by a review of various conceptual and methodological issues in the definition and assessment of "mental pain or suffering" and some research findings relevant to various definitional issues, such as the individual and cumulative effects of captivity stressors, the distinction between physical and nonphysical stressors, and the distinction between torture and cruel, inhuman, or degrading treatment (CIDT). These findings are based on new analyses of our research data, which were conducted for the purposes of this chapter. Thus, they represent our most up-to-date research evidence relevant to definitional issues around torture. Based on such evidence, I also present a learning theory formulation of torture and review its implications for the definition of torture in international law. The definitional implications of this formulation for domestic violence and "enhanced interrogation techniques" are reviewed in chapters 5 and 13, respectively.

The research findings presented in this chapter are based on four consecutive studies (Başoğlu et al., 1994; Başoğlu et al., 1997; Başoğlu, 2009; Başoğlu et al., 2005), altogether involving 432 survivors of torture (202 from Turkey, 230 from former Yugoslavia countries[1]). The Turkish study participants included political activists, as well as ordinary civilians, most of whom were detained/imprisoned and tortured by the authorities following the 1980 military coup in Turkey. The study participants from former Yugoslavia were recruited from among combat veterans, refugees, and internally displaced people in Bosnia, Republica Srpska, Croatia, and Serbia, who had been held captive and tortured by the enemy, some in detention camps, during the war in the early 1990s. Data from these studies were pooled for analysis, thus obtaining a fairly large sample with

1. Although our original study in former Yugoslavia countries included 279 torture survivors, 49 were excluded from this pooled sample because their traumatic stress problems were related to other war experiences.

sufficient statistical power for multivariate analyses.[2] These analyses may seem rather complex to readers who may not be familiar with such statistical techniques, but they were essential in demonstrating the complex contextual processes that define torture. The findings are presented in the simplest way possible with brief explanations of the statistical methods used. The results of these analyses are referred to as "the present study" findings to distinguish them from previously published findings.

The terms "captivity," "captors," and "captive" used in this chapter refer to detention or imprisonment by state authorities or an enemy in a war context because many of our research findings relate to experiences in these settings. These terms can also apply to a wide range of other situations, however, considering that the term "captivity" can be broadly understood to refer to a situation in which a person experiences near-total deprivation of freedom and autonomy and consequent loss of control over life under the direct control of other persons. These situations may include, among others, various state institutions other than prisons, captivity by nonstate actors, and settings where various forms of gender-based violence occur.

A LEARNING THEORY MODEL OF TRAUMA

The learning theory model of trauma shown in Figure 1.1 essentially reflects what we know about evolutionarily determined responses to life-threatening events in animals and humans. When faced with a threatening event, appraisal of its controllability determines the psychological impact of the event. If the individual has not had previous learning of control over negative outcomes of stressor events, the event is perceived as uncontrollable. Loss of cognitive, behavioral, or emotional control over the event (e.g., inability to escape from the situation, avoid the occurrence of the event, or reduce its impact) is associated with distress, fear, or panic. Such loss of control confirms the uncontrollability of the stressor event and leads to a state of helplessness or anxiety with respect to possible future occurrences of the event. On the other hand, those who are certain of both their helplessness and the occurrence of negative outcomes are likely to develop

2. Multivariate analysis involves observation and analysis of more than one statistical outcome variable at a time. Torture can be best understood as the cumulative psychological impact of multiple contextual stressors that interact with each other. The associations among multiple stressors can only be analyzed by multivariate statistical techniques, such as principal components or factor analysis.

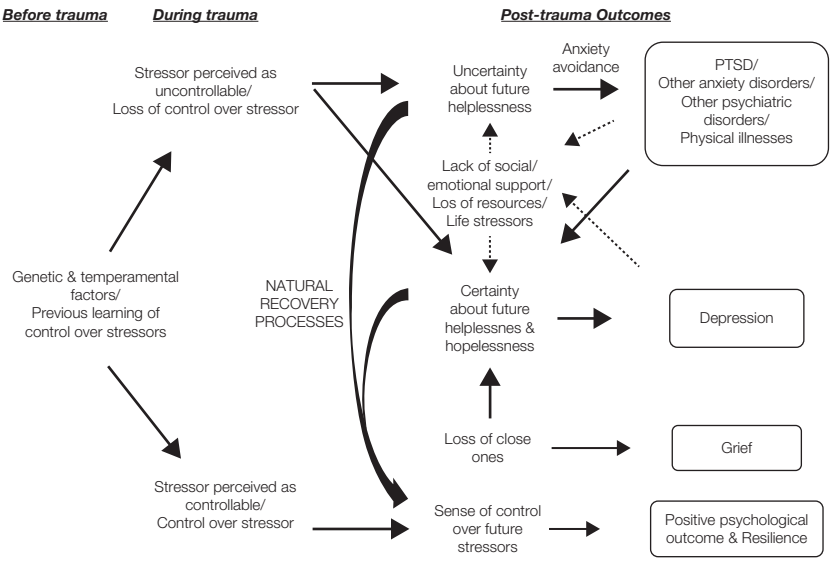

Figure 1.1: Learning theory model of trauma.
Reprinted from Başoğlu & Şalcıoğlu, 2011, with permission from Cambridge University Press.

hopelessness depression. In situations that involve multiple stressor events (e.g., recurring earthquakes, war violence, combat, political persecution, torture), future occurrences of the traumatic stressors may reinforce the helplessness effects of the initial event and may lead to more certain helplessness and even hopelessness. Several other factors may contribute to depression by increasing certainty about helplessness and hopelessness. These include uncontrollable stressor effects of various posttraumatic stress disorder (PTSD) symptoms, such as intrusive thoughts, flashbacks, and nightmares (Alloy, Kelly, Mineka, & Clements, 1990), and additional uncontrollable life stressors caused by functional impairment secondary to PTSD symptoms (e.g., inability to find employment because of severe behavioral avoidance, memory/concentration difficulties, or serious family discord due to problems of irritability/anger outbursts) or other psychiatric/medical problems. In situations that involve a single traumatic event, certainty about helplessness and hopelessness may be enhanced by failed attempts at achieving control over re-experiencing symptoms of PTSD or overestimated probability of the same event occurring in the future. The extent of certainty about the occurrence of future negative outcomes and helplessness are the two critical factors in anxiety and depression. Although uncertainty about helplessness with respect to future threats is associated with anxiety, loss events are more likely to lead to hopelessness and depression (Mineka, Watson, & Clark, 1998).

Figure 1.1 shows an association between helplessness anxiety and various health outcomes of trauma exposure. These health outcomes may include various psychiatric conditions (e.g., PTSD, other anxiety disorders, depression and suicide, substance abuse, psychotic illnesses) and physical health problems (e.g., cardiovascular disorders, psychosomatic illnesses, immune system disorders). In surveys that employed structured clinical interview forms for assessment of psychiatric disorders, PTSD and depression were the most common psychiatric outcomes of exposure to mass trauma events, including wars (Başoğlu et al., 2005; De Jong, Komproe, & Van Ommeren, 2003; Laban, Gernaat, Komproe, Schreuders, & De Jong, 2004; Priebe et al., 2010; Steel, Silove, Phan, & Bauman, 2002), torture (Başoğlu et al., 1994; Van Ommeren et al., 2001), and natural disasters (Lai, Chang, Connor, Lee, & Davidson, 2004; McMillen, North, Mosley, & Smith, 2002; McMillen, North, & Smith, 2000). The effects of stress on physical health are also well known (evidence reviewed in Başoğlu & Şalcıoğlu, 2011). Experimental studies show that perceived controllability of stressors is critical in modulating immune functioning in animals (Fleshner, Nguyen, Cotter, Watkins, & Maier, 1998; Laudenslager, Ryan, Drugan, Hyson, & Maier, 1983) and in humans (Peters et al., 1999; Sieber et al., 1992).

The second pathway in Figure 1.1 indicates that individuals who have previously learned control over stressor events or the important aspects of their environment can use effective control strategies to secure safety, reduce the impact of the event if it cannot be avoided, and gain control over fear evoked by the stressor. Attempts to maintain control can take place on cognitive, behavioral, emotional, or physiological levels. Behavioral control is often aimed at warding off danger, avoiding threatening events, or reducing pain or distress associated with aversive events when such events are unavoidable. Cognitive control involves use of distress-reducing thoughts, beliefs, or self-statements (e.g., "I will not betray my cause by surrendering to the enemy," "It will be over soon") or distraction or cognitive dissociation or distraction strategies ("This is not happening to me," "This is not my body"). Control over disturbing emotions is geared toward maintaining organized and meaningful self-protective behaviors during intense distress or fear. Certain physiological processes, such as endogenous release of opioids during intense physical pain, also serve to facilitate control during torture. Effective control often reduces anxiety or fear during exposure to the stressor event, facilitates recovery from the acute impact of trauma, and reinforces expectancies of control over future stressor events. Effective control over stressor events also has immunizing effects against future uncontrollable stressors (Hannum, Rosellini, & Seligman, 1976; Seligman & Maier, 1967; Williams & Maier, 1977).

Exercise of control over physical and environmental threats is possibly an evolutionarily determined need essential for survival of most living organisms. Indeed, this is probably why humans and animals have developed a capacity to take in and interpret sensory stimuli in ways that help them cope with environmental adversities or threats to safety. Previous experience of effective control over particular stressor events leads to a "sense of control" over such events. From a social cognitive theory perspective, Bandura has proposed a similar concept—"perceived self-efficacy"—which, in the context of trauma, refers to perceived capability to manage one's personal functioning and the environmental demands of the aftermath of the traumatic event (Benight & Bandura, 2004). Unlike other related concepts that reflect generalized beliefs of control (e.g., locus of control), sense of control is specific to individual stressor situations and might vary from one stressful situation to another. The literature is replete with examples of various coping behaviors that humans use to gain control over a threatening captivity environment. When asked about what they did to cope with their experience during captivity, torture survivors report a wide range of coping behaviors, some of which can be quite idiosyncratic and creative. Because we have reviewed these behaviors in previous publications (Başoğlu & Mineka, 1992; Başoğlu & Şalcıoğlu, 2011), they will not be detailed here. Koenig provides some excellent examples of attempts to maintain sense of control during torture in former Guantánamo detainees in chapter 3.

It is important to note here that the terms "lack of control" and "helplessness" are not used as the equivalents of the "learned helplessness" concept. There is a distinction between the emotional effects of exposure to unpredictable and uncontrollable stress (i.e., anxiety or fear) and learned helplessness as a possible but not invariable cognitive effect of such exposure. Unlike in tightly controlled inescapable shock experiments with animals, exposure to real-life unpredictable and uncontrollable stressors may not always lead to learned helplessness in humans because of the wide range of cognitive, emotional, and behavioral strategies they use to maintain sense of control during the event. Learned helplessness can occur when no control over the stressor situation can be exercised, but even when it does not occur, anxiety or fear evoked by such exposure can still have detrimental effects on the organism. Accordingly, the term "helplessness" used throughout my chapters in this book refers to loss of control over threatening situations and does not necessarily imply "learned helplessness."

The third pathway in Figure 1.1 represents natural recovery processes in trauma survivors. These processes involve various cognitive and behavioral control strategies that are used to reduce helplessness anxiety and

hopelessness depression during both the trauma phase involving exposures to multiple ongoing stressor events and the posttrauma phase. Recovery is likely to the extent that these strategies are effective in reducing helplessness and hopelessness. The model thus proposes an explanation as to why some people show "spontaneous recovery" from traumatic stress, whereas others develop chronic traumatic stress. Our field experience with survivors of wars, torture, and earthquakes suggests that the most common coping strategy employed by survivors is *exposure to trauma reminders or feared situations that signal further threat*. Indeed, we have observed many survivors recovering from their traumatic stress problems by not avoiding feared situations.

Evidence from our studies provided ample support for the key components of this model. Early studies (Başoğlu et al., 1994; Başoğlu, Paker, Taşdemir, Özmen, & Şahin, 1994; Başoğlu & Paker, 1995; Başoğlu et al., 1996; Başoğlu et al., 1997) involving a total of 202 tortured political activists and ordinary civilians demonstrated that individuals with more "psychological preparedness for torture" maintain greater sense of control over stressor events during torture, experience less distress, and develop less severe posttraumatic stress problems. A further study (Başoğlu et al., 2005) examined the mechanisms of traumatic stress (with a focus on cognitive processes) in 1,358 war survivors in former Yugoslavia countries, 279 of whom had an experience of torture. This study demonstrated a strong association between loss of control and perceived distress during traumatic events and found loss of control induced by perceived threat to physical and psychological well-being (hereafter referred to as *threat appraisal*) as the most important predictor of traumatic stress in war and torture survivors. The same finding was replicated in survivors of earthquakes (Başoğlu, Şalcıoğlu, & Livanou, 2002; Başoğlu, Kılıç, Şalcıoğlu, & Livanou, 2004; Livanou, Başoğlu, Şalcıoğlu, & Kalender, 2003; Şalcıoğlu, Başoğlu, & Livanou, 2003; Livanou, Başoğlu, Şalcıoğlu, & Kalender, 2002; Şalcıoğlu, Başoğlu, & Livanou, 2007a, 2007b; see also Başoğlu & Şalcıoğlu, 2011). The reader is referred to Başoğlu & Şalcıoğlu (2011) for a detailed account of the important role of unpredictable and uncontrollable stressors in trauma induced by earthquakes and torture. Other studies have also found an association between perceived control over the outcomes of aversive experiences and PTSD (Davidson, Baum, & Collins, 1982; Kushner, Riggs, Foa, & Miller, 1993; O'Neill & Kerig, 2000; Regehr, Cadell, & Jansen, 1999).

Further (indirect) evidence supporting the role of sense of control in traumatic stress came from studies of a psychological intervention (*Control-Focused Behavioral Treatment*—CFBT; Başoğlu and Şalcıoğlu,

2011) developed by our research group. CFBT aims at enhancing a survivor's sense of control over (or resilience against) traumatic stressors by encouraging them to stop avoiding trauma cues (i.e., trauma reminders or situations that evoke anxiety, distress, or fear because they signal threat of trauma recurrence). This intervention was inspired by observations of natural recovery in mass trauma survivors, as well as by evidence suggesting that helplessness is strongly associated with avoidance of trauma cues. If avoidance of feared or distressing situations is conducive to helplessness, then nonavoidance or exposure to fear or distress cues until sense of control develops would be expected to reverse helplessness and associated traumatic stress responses. This hypothesis was indeed confirmed by a series of studies of CFBT in survivors of earthquakes (Başoğlu, Livanou, Şalcıoğlu, & Kalender, 2003; Başoğlu, Livanou, & Şalcıoğlu, 2003; Başoğlu, Şalcıoğlu, Livanou, Kalender, & Acar, 2005; Başoğlu, Şalcıoğlu, & Livanou, 2007; Başoğlu, Şalcıoğlu, & Livanou, 2009) and war trauma and torture (Şalcıoğlu & Başoğlu, 2015), all of which showed strong treatment effects on traumatic stress.

Some scholars have argued that learning theory cannot account for the wide-ranging physical, mental, and social consequences of torture because of its focus on PTSD. First of all, it is important to emphasize that the focus of the learning theory model of trauma in Figure 1.1 is on *traumatic stress* and not on PTSD. Care needs to be taken not to confuse the term "traumatic stress" with PTSD. The latter is a diagnostic category involving a certain constellation of traumatic stress symptoms, whereas "traumatic stress" is a much broader term that refers to various psychological processes (e.g., anxiety, fear, terror, discomfort, helplessness, hopelessness, anger, shame, guilt, or any other negative or disturbing emotion) that mediate the effects of trauma and lead to a wide range of psychological, physiological, psychiatric, and medical conditions. Traumatic stress leads to cognitive, affective behavioral, and physiological responses to trauma, the most common of which are PTSD and depression. Furthermore, the model also takes into account pretrauma variables, such as genetic and temperamental factors, as well as posttrauma psychosocial stressors related or unrelated to the trauma.

The next section examines how a learning theory model of traumatic stress can be useful in understanding mental pain or suffering. The term "mental pain or suffering" refers to psychological effects of torture, whether physical or mental, without making a distinction between the two forms of torture. This is because physical pain is not only a neurophysiological but also a psychological process with enduring psychological effects beyond the duration of physical pain. What makes physical pain torture is the meaning

attributed to it, and attributions are cognitive processes shaped by contextual factors. A distinction between physical and mental pain or suffering is therefore not only scientifically unfounded but also conducive to a distorted understanding of torture.

Although the concept of "mental pain or suffering" falls squarely into the domain of health sciences, there have been few systematic efforts to define and operationalize this concept and devise measures to assess its severity in relation to various ill-treatments. Consequently, there have been few studies examining whether torture is distinct from other forms of ill-treatments in its severity. Perhaps partly because of this reason, when other criteria for torture have been met (e.g., official involvement, purpose, intent), decisions concerning whether various ill-treatments in particular cases constituted torture or CIDT appear to have been largely based on the subjective judgments of law professionals. The terms "torture," "cruel," "inhuman," and "degrading" essentially reflect subjective judgments that are inevitably determined to a significant extent by culturally shaped perceptions of what constitutes severe mental pain or suffering. Such perceptions differ considerably across cultures. Such terms may not be helpful, when not defined on the basis of a sound theory that sets out to explain human behavior across cultures. Although scientific study of this issue, even in the presence of a sound theoretical approach, is a formidable task fraught with methodological challenges, this is the only way forward as long as the concept of "mental pain or suffering" is used as a criterion in defining torture.

MENTAL PAIN OR SUFFERING: DEFINITIONAL AND METHODOLOGICAL ISSUES IN ASSESSMENT

In our studies we developed a methodology to obtain detailed information about stressor events commonly experienced during captivity and measure their relative psychological impact. Such methodology allowed us to develop an operational definition of mental pain or suffering and measure its components. This section will review three main issues relating to mental pain or suffering: definition, contextual characteristics, and measurement.

Mental Pain or Suffering: Definitional Issues

To address the issue of what constitutes "severe mental pain or suffering" during captivity, one would first need to define "mental pain or suffering."

Does it refer to the immediate psychological impact of particular captivity stressors, or should it be interpreted as also including all other medical and psychosocial consequences that arise from the stressors in the long-term? The former approach is too narrow in its scope and does not adequately capture the impact of captivity stressors. Note that Figure 1.1 provides a more thorough conceptual framework for the definition of mental pain or suffering. A broader definition of mental pain or suffering can be justified on several grounds. First, the immediate impact of captivity stressors (i.e., anxiety/fear responses to uncontrollable stressors) is only the starting point of a long-term traumatic stress process. As indicated in Figure 1.1, torture may have wide-ranging consequences in a person's life, such as various psychiatric conditions, physical injury or illnesses, loss of close ones and/or resources, and adverse effects on social, occupational, and family functioning (Başoğlu, 1992). The disabling effects of such outcomes may lead to additional life stressors or make it difficult to cope with even ordinary, torture-unrelated life stressors. Evidence also suggests that such additional psychosocial stressors can contribute to traumatic stress reactions (Başoğlu et al., 1994).

Second, the long-term mental health effects of torture have been well documented by many studies (reviewed by Başoğlu, Jaranson, Mollica, & Kastrup, 2001). The two most common outcomes are PTSD and depression. In the present study, 55% of the Turkish survivors of torture and 77% of the survivors from former Yugoslavia countries had developed PTSD at some stage after the torture. Fear and loss of control are often the most prominent aspects of acute traumatic stress and continue to be so long after the trauma. In the present study sample, for example, 47% of the survivors still felt fear for their life, 43% felt their loved ones were in danger, 40% felt fearful in crowded places, 50% could not lead a normal life for fear of the same events happening again, 53% had fear of coming across their torturers someday, and 58% developed fears they did not have before. Depression can occur as a consequence of loss of close ones or loss of resources, but more commonly it reflects the hopelessness effects of captivity experiences and is often maintained (or aggravated) by the debilitating effects of PTSD symptoms.

Third, there is a phenomenological overlap between acute and chronic traumatic stress. As noted earlier, the term "traumatic stress" refers to psychological responses, such as anxiety, fear, terror, discomfort, helplessness, hopelessness, anger, shame, guilt, or any other disturbing emotion. Traumatic stress can be acute, beginning with exposure to stressor events and lasting for the duration of the events, or chronic, lasting for months or years after the events. The difference between acute and

chronic traumatic stress is more temporal than phenomenological. Their core symptoms, such as re-experiencing the trauma (e.g., having intrusive thoughts, nightmares, or flashbacks, or being distressed by reminders of trauma), avoiding trauma reminders, and experiencing hyperarousal symptoms, are largely similar. Re-experiencing phenomena can induce as severe mental pain or suffering as that experienced during the actual trauma event itself. Flashbacks, for example, are characterized by sudden outbursts of emotion—often intense fear or terror—triggered by memories or reminders of the trauma. The person dissociates from reality and relives the trauma event as if it is happening all over again. Thus, chronic traumatic stress means that the traumatic event is not over for the person and that it may be re-experienced repeatedly for a long time.

Contextual Determinants of Mental Pain or Suffering

Captivity often entails exposure to multiple situational or contextual stressors[3] experienced either simultaneously or sequentially. In the present study of 432 torture survivors, the mean number of different stressor events experienced during captivity was 22 (standard deviation [SD] = 8). As noted earlier, the relative impact of a particular stressor event is largely determined by its perceived uncontrollability or its *threat value*. Various stressors, when administered together, enhance the effects of each other, leading to a cumulative impact. Such cumulative impact is not the total sum of individual stressor impacts. To illustrate this, let us consider a captivity event involving three *situational* stressors: being beaten (S_1) while blindfolded (S_2) and hands tied (S_3). Assuming they have distressing effects dS_1, dS_2, dS_3 when administered separately (or in different contexts), the cumulative impact of their concurrent administration is not simply additive (i.e., $dS_{1+}\, dS_2 + dS_3$) but multiplicative (i.e., $dS_1 * dS_2 * dS_3$) because blocking visual and behavioral control greatly magnifies the uncontrollability of beating (Başoğlu & Mineka, 1992).

3. Situational stressors include stressful events or situations that arise from the actions (or inaction) of others in the captivity environment, such as interrogation processes, ill treatments encountered in daily life outside interrogation sessions, and deprivation of basic needs arising from poor captivity conditions. Contextual stressors, on the other hand, include aspects of captivity environment or events that enhance stressor unpredictability and uncontrollability and therefore the threat value of stressors. The meaning attributed to stressor events (often determined by individual or cultural factors) can also be considered as a contextual variable that modulates stressor impact.

Let us further assume that (1) captivity occurs unexpectedly, (2) beating takes place during interrogation on the first day of captivity when the person is least prepared for such events, (3) there is no access to outside help (e.g., as in detention incommunicado or "extraordinary rendition"), (4) the event occurs in a setting where other people are known to have been tortured or killed, and (5) there is total uncertainty about the duration of captivity. These are examples of various *contextual* stressors that determine the meaning of $dS_1 * dS_2 * dS_3$ and thus its threat value. Mental pain or suffering evoked by this situation is the cumulative interactional impact of all its constituent stressors, both situational and contextual. Captivity may entail successive stressors that may maximize the cumulative impact of captivity when the person cannot or is not allowed to maintain sufficient sense of control over the stressor events.

Although sense of control is largely determined by the outcomes of previous experiences with similar stressors, it can also be affected by certain contextual processes that act as *safety signals*. Safety signals are events, cues, or perceived aspects of a stressor situation that reduce anxiety by making the occurrence of anticipated threats more predictable and therefore more controllable (Seligman, 1968; Seligman & Binik, 1977). For example, availability of help from the outside world (e.g., from friends, family, lawyers, due process of law) can act as a safety signal and reduce anxiety or fear. Conversely, blocking this safety signal by not allowing communication with the outside world maximizes fear. When faced with totally unpredictable (and therefore uncontrollable) stressors, individuals often embark on a desperate search for safety signals to reduce their anxiety, and removal of these signals substantially aggravates mental pain or suffering.

Assessment and Measurement of Mental Pain or Suffering

In our studies we developed a variety of measures to assess both the immediate and long-term cumulative impact of captivity experiences. A *Semi-Structured Interview for Survivors of Torture* (SIST; Başoğlu et al., 1994) provides information about risk factors for traumatic stress; objective and subjective severity of captivity stressors; impact of captivity on family and loss of social, occupational, economic, and educational resources; and functional impairment in social, work, and family life. The SIST includes a structured *Exposure to Torture Scale* that elicits information about 46 most common stressor events during captivity. Each reported stressor event is rated for the intensity of associated distress (*Perceived*

Distress Rating —PDR)[4] and uncontrollability (*Perceived Uncontrollability Rating*—PUR)[5] on 0-4 scales. The term "distress" in PDR refers to anxiety, fear, terror, discomfort, anger, shame, guilt, or any other disturbing emotion experienced during the event. Both ratings focus on perceived severity of trauma *at the time of the event*. The PUR is based not only on the survivors' own appraisal of sense of control but also on their account of actual coping behaviors during torture and their outcomes. For example, when survivors report having been completely in control during the event, they are asked to explain the circumstances and what they actually did to maintain such high sense of control. After such information is elicited, the same scales are administered in relation to the overall captivity experience to obtain a *Global Distress Rating* ("Overall, how distressing was your captivity/torture experience?") and a *Global Control Rating* ("Overall, how much control did you have over your captivity experiences?"). Our studies demonstrated the validity and reliability of these measures. They correlate highly with the respective distress and control ratings in relation to most of the individual 46 stressor events.

The Exposure to Torture Scale yields two different measures of trauma severity. The global distress and control ratings are "subjective" measures of overall severity of captivity experience, whereas the total number of different stressor events experienced during captivity is an "objective" measure. Duration of and number of exposures to a particular stressor event (frequency) are objective severity measures pertaining to individual stressor events, and their value in assessment will be discussed later in the chapter. The use of subjective measures of trauma severity is an important aspect of the methodology used in our studies, considering that such assessment is highly relevant to the definition of torture. Most studies, including those involving survivors of torture, have not used subjective measures, which, as will be evidenced later in this chapter, are much better predictors of mental outcomes.

The association between these measures in the present study is shown in Figure 1.2. Similarly, both measures can be used to predict long-term mental outcomes, such as PTSD and depression. Figure 1.3 shows that these measures are strong predictors of lifetime diagnosis of PTSD. It is important to note here that an objective measure of trauma severity, such as the total number of stressor events experienced, is not a reliable

4. 0 = not distressing at all, 1 = slightly, 2 = moderately, 3 = severely, 4 = extremely severely distressing.

5. 0 = completely in control, 1 = fairly in control, 2 = moderately in control, 3 = slightly in control, 4 = not at all in control/totally helpless.