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Sleep Is a Human Right, and Its Deprivation Is Torture

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Abstract

Sleep is integral to human health and well-being; it is recognized as a fundamental right by international bodies. Nevertheless, deliberate sleep deprivation is frequently employed as a form of torture, violating the right to health. Legal cases such as *LeMaire v Maass*, *Ireland v UK*, and *Huertas v Secretary Pennsylvania Dept of Corrections* illustrate the varying interpretations of sleep deprivation as torture or cruel and unusual punishment. Ambiguity in domestic and international legal definitions underscores the need for collaboration between health and legal professionals. Clinicians can offer expertise about physiological and psychological consequences of sleep deprivation, which informs what legally counts as torture. This commentary explores the intersection of sleep deprivation, human rights, and the role of medical professionals in addressing, identifying, and preventing sleep deprivation as a means of coercion and abuse.

Case Law on Sleep

Samuel LeMaire was imprisoned in the Disciplinary Segregation Unit (DSU) in the Oregon State Penitentiary.¹ The DSU contained cells that were “lighted 24 hours per day,” which the plaintiff alleged disrupted his sleep and led to psychological problems.¹ The district court found the 24-hour lighting conditions to be unconstitutional, stating: “[t]here is no legitimate penological justification for requiring [inmates] to suffer physical and psychological harm by living in constant illumination.”¹ In *Huertas v Secretary Pennsylvania Dept of Corrections*, Hector Huertas made a similar claim: Huertas alleged that the 24-hour lighting within the corrections unit violated the Eighth Amendment’s prohibition against cruel and unusual punishment.² However, the Third Circuit Court of Appeals found that Huertas’ claim did not reach the threshold of being unconstitutional, noting that “not all deficiencies and inadequacies in prison conditions amount to a violation of a prisoner’s constitutional rights.”² Differences in the outcomes of these cases highlight the subjective nature of identifying and defining torture inflicted via sleep deprivation tactics and reveal a need for proper **liaising between medical and legal professionals** to ensure adequate protection of people experiencing incarceration.

Sleep and the Right to Health

Sleep is an essential component of the body's homeostasis and physiological functioning. Quantifying sufficient duration and quality of sleep can prove difficult, as sleep patterns and needs vary not only between individuals but also for any given individual in response to aging, changes in routine, and physical demands. However, our understanding of sleep—its mechanics, cycles, and effects on the body—has improved dramatically over the last century, and thus our understanding of its converse—sleep deprivation—has concurrently grown deeper. As sleep is integral to health and the right to health has been recognized by numerous international governing bodies,^{3,4} it follows that the purposeful deprivation of sleep violates the right to health though it is frequently used as a means of torture. Perpetrators often avoid accountability by justifying torture based on specific circumstances. Furthermore, the lack of a specific threshold of what constitutes sleep deprivation and the “justification” exemption as interpreted by some states present challenges in prosecuting it as torture. The ambiguity in legal definitions of torture, especially in the context of sleep deprivation, necessitates a careful examination of medical literature, existing laws, and international conventions to protect sleep as an essential human right and prevent its use as a means of coercion and abuse.

The World Health Organization defined health in its 1946 constitution as “a state of complete physical, mental and social well-being” and declared that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being.”³ As is common knowledge and as studied by numerous clinicians and scientists, optimal health is not possible without an appropriate quality and quantity of sleep (ie, proper sleep hygiene). Poor sleep hygiene is associated with cardiovascular disease, inattention, learning difficulties, mental health disorders, and numerous other medical problems in adults and children.⁵ Sleep medicine experts consider good sleep to consist of 4 to 5 uninterrupted sleep cycles of light, deep, and rapid eye movement sleep.⁶ While beyond the scope of this commentary, the **intricacies of these cycles** are what lead to the physiological restorative effects necessary for cognition and routine repair that the body performs, and, conversely, interruptions in these cycles lead to specific sleep disturbances and sequelae. Consequently, clinicians recommend 7 to 9 hours of sleep daily (preferably at night) and maintaining a consistent sleep schedule.⁶ Sleep deprivation, whether intentional or unintentional, disrupts these processes, making it impossible for the body to function at its highest level.

Distinguishing Torture From Cruel, Inhuman, or Degrading Treatment

Based on the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), torture is characterized by 4 critical elements: (1) “severe pain or suffering” (either physical or mental), (2) intentionality of the perpetrator to deliberately inflict such pain, (3) a specific purpose (such as “obtaining from him ... information or a confession,” intimidation, or punishment), and (4) involvement of persons in an “official capacity.”^{7,8} This definition has evolved to encompass various forms of harm, including prolonged mental harm or deliberately disrupting senses or personality.^{8,9}

The Geneva Conventions, particularly Geneva Convention III of 1949, highlighted the prohibition of torture in conflicts and for individuals not actively engaged in hostilities.¹⁰ President Ronald Reagan signed the UNCAT in 1988, and Congress enacted 18 USC §2340A in 1994 to comply with the Convention.¹¹ This statute applies only to acts of torture committed outside the United States, although there is “Federal extraterritorial

jurisdiction over such acts whenever the perpetrator is a national of the United States or the alleged offender is found within the United States, irrespective of the nationality of the victim or the alleged offender.”¹² The statute defines torture as specific acts intended to cause severe physical or mental pain,¹² omitting the original language about the purpose of harm, thereby introducing ambiguity and, as some have attempted to argue, a torture justification exemption.¹³

While the universally accepted UNCAT definition of torture involves the intentional infliction of severe physical or mental pain or suffering by a public official for a specific purpose,¹² other definitions have been offered. The Inter-American Convention to Prevent and Punish Torture offers a broader definition that does not necessitate severe pain and suffering.¹⁴ In international humanitarian law, torture is not confined to public officials but can be committed by any individual.¹⁵ Despite differing interpretations of torture, the UNCAT definition remains the core reference for defining torture. The UNCAT distinguishes between “torture” and “other acts of cruel, inhuman or degrading treatment or punishment” (CIDT) and *prohibits* torture completely while obligating states only to *prevent* CIDT.¹⁵ Understanding the origins of these distinctions provides insight into the continued difficulty in reaching legal agreement on where the line is between them.

The UNCAT was initially developed in response to a UN General Assembly resolution. The Commission on Human Rights (now the Council on Human Rights) created a draft convention against torture to replace the 1975 declaration against torture,¹⁶ which defined torture as an “aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.” To achieve this goal, the Commission on Human Rights established a working group to examine the distinction between torture and CIDT.¹⁶ The working group concluded that while torture could be defined with reasonable precision, drafting a precise definition of inhuman treatment was impossible.¹⁶ Additionally, because State Parties to the convention would be legally bound to incorporate its terms into their national criminal law, attaching these obligations to a vague concept like CIDT was deemed impractical.¹⁷ Taking into account the Commission on Human Rights’ working group’s discussions, the recommendations of the European Commission of Human Rights (European Commission), and the European Court’s evaluations, the UN General Assembly adopted the definition of torture as outlined in the UNCAT in December 1984.

While the 1975 declaration against torture viewed torture as an aggravated form of inhuman treatment, the UNCAT clarified the distinction to be about purpose more so than severity. As such, Article 16 explicitly refers to “cruel, inhuman and degrading treatment or punishment which do not amount to torture” and only requires State Parties to “undertake to prevent,” rather than prohibit, such acts committed under their jurisdiction.⁷ This distinction is significant, as the UNCAT mandates that States Parties establish judicial remedies for torture victims, assert criminal jurisdiction over acts of torture and prosecute or extradite its perpetrators, and prohibit the submission of all statements obtained through torture in legal proceedings.⁷ None of these obligations apply to inhuman treatment.

The issue of the severity of pain or suffering caused by torture was actually addressed earlier, however. In the 1969 “Greek case” involving Denmark and other states against the Greek military government,¹⁸ the European Commission was tasked with interpreting Article 3 of the European Convention, which prohibits torture or “inhuman or degrading

treatment or punishment.” The European Commission categorized Article 3’s prohibition into 3 parts: “inhuman treatment” was defined as treatment deliberately causing severe mental or physical suffering that is unjustifiable in the particular situation; “degrading treatment” was described as treatment that grossly humiliates a person before others or forces them to act against their will or conscience; and “torture” was described as inhuman treatment that serves a purpose, such as obtaining information or confessions or inflicting punishment, and is generally a more severe form of mistreatment.¹⁹

While the European Commission’s decision had a significant impact on the 1975 UN declaration against torture,²⁰ which also recognized torture as an aggravated form of inhuman treatment, the case of *Ireland v United Kingdom* in 1980 presented a challenge to the European Commission’s purpose-driven test. This case involved the use of 5 interrogation techniques—including sleep deprivation—by British security forces on Irish Republican Army suspects.²¹ The European Commission concluded that the purpose of these techniques was to obtain information and unanimously ruled that they amounted to torture, stating that the systematic application of the techniques for this purpose resembled methods of systematic torture.²¹ However, the European Court of Human Rights disagreed with the European Commission’s assessment. The European Court acknowledged that the techniques constituted inhuman treatment but did not consider them to be torture.²¹ The European Court instead based its decision on a different interpretation of the distinction in Article 3 of the European Convention between torture and inhuman or degrading treatment, emphasizing that this distinction primarily hinges on the intensity of the suffering inflicted. According to the European Court, while the 5 techniques, when used together, undoubtedly amounted to inhuman and degrading treatment, they did not cause suffering of the specific intensity and cruelty associated with torture.²¹

Although both inhuman treatment and torture involve suffering, the European Commission emphasized that the purpose of the conduct is crucial in distinguishing between the two. It maintained that severe suffering might be justifiable in certain circumstances but that torture, with its additional purposeful element of obtaining information or confessions or inflicting punishment, can never be justified.²¹ The European Court, however, argued that torture deserved a “special stigma” not attributable to other forms of inhuman or degrading treatment due to the intensity of suffering involved.²¹ This distinction formed the basis of the court’s decision to classify the 5 techniques as inhuman treatment rather than torture.²¹ In summary, the European Commission distinguished torture from CIDT by the purpose of the act, whereas the European Court distinguished torture from CIDT by the severity of suffering from, more so than the purpose of, the act.

Post *Ireland*, the distinction between torture and CIDT based on the severity of suffering led some states to argue that, while torture is forbidden, CIDT might be justified in exceptional circumstances.¹⁷ Both torture and CIDT are forbidden by the UN Declaration of Human Rights (Article 5), UNCAT, the International Covenant on Civil and Political Rights (Article 7), and the European Convention on Human Rights (Article 3).^{7,22,23,24} The *legal* distinction between torture and CIDT hinges on the *purpose* behind the acts (torture aims to obtain a confession, while CIDT does not have a specific purpose).²⁵ However, *medical and psychological research* have demonstrated that there is no significant difference between torture and CIDT from a psychological or neurobiological perspective.²⁶ This research has led some practitioners to recommend abolishing the distinction altogether.²⁶

Thus, there is no justification for torture or CIDT, as the legal distinction between acts of torture and CIDT does not align with their psychological impacts. It is known that torture leads to false confessions and inaccurate information.²⁷ If it is not the purpose of the offender to obtain false and inaccurate information, then the only other plausible motivation behind the torture is to cause intentional and purposeful harm to a targeted individual, which, by definition, is torture and is illegal under domestic and international law.⁹

Sleep Deprivation as Torture

Sleep deprivation is carried out in various ways: constant illumination, cold conditions, loud noises being played, constant and repetitive awakening, forced standing, and so on.^{28,29} Although the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has regularly declared that sleep deprivation is capable of amounting to torture, the threshold at which methods to cause sleep deprivation become torture is subject to interpretation.^{30,31} Notably, the above conditions occurring in immigration detention centers in the United States have failed to be unanimously recognized as torture, despite various elements of torture—including duration, intentionality, and specific purpose—being behind their use.²⁸

It should be noted that sleep deprivation occurs in numerous other circumstances that do not amount to torture. Around the world, work-life boundaries are blurred, as people are constantly on email and social media. Shift workers switch back and forth between day and night shifts. Many of us choose to forgo sleep for other activities despite knowing how poorly we may feel after insufficient or poor-quality sleep. But in all of these circumstances, we have at least limited agency to choose sleep. Persons subjected to sleep deprivation as a form of torture have no agency and no ability to modify their environments or habits to ensure sleep.

Prosecuting Perpetrators of Sleep Deprivation

Due to certain qualifications contained in definitions of torture and lack of proper documentation of torture tactics, the prosecution of sleep deprivation as a form of torture has been largely unsuccessful.³² Furthermore, findings in US cases prosecuting sleep deprivation as torture vary significantly. This variation may be explained by the exemption justification that arises under the UNCAT's and earlier conventions' distinguishing torture from CIDT, as exemplified below.

In the United States, sleep deprivation has been historically considered a form of torture since the case of *Ashcraft v Tennessee* in 1944.³³ The individual in this case was subjected to 36 hours of bright lights that caused sleep deprivation, and the court acknowledged it as both physical and mental torture, citing and quoting from an earlier report: "It has been known since 1500 at least that deprivation of sleep is the most effective torture and certain to produce any confession desired."³⁴ Numerous studies have corroborated that confessions obtained under these conditions are often false and thus of little utility.^{33,35}

Legal cases, such as *Keenan v Hall*³⁶ and *LeMaire v Maass*,¹ have highlighted unconstitutional aspects of subjecting individuals to constant illumination, emphasizing the psychological harm caused by disturbing sleep patterns and exacerbating preexisting mental disorders. In *LeMaire*, Chief Judge Owen Panner noted that "[t]here is no legitimate penological justification for requiring plaintiff to suffer physical and psychological harm by living in constant illumination. This practice is unconstitutional."¹

However, the War Crimes Act, enacted to prosecute violations of the laws of war, has not been effectively utilized for prosecuting acts of sleep deprivation as torture, despite its provisions covering international and non-international armed conflicts involving US citizens.³⁷

Challenges persist in fully recognizing and prosecuting sleep deprivation as a form of torture due to varying legal interpretations within the judicial system. Notably, there have been instances in which courts, under the guise of penological purpose, have eroded the authority of cases concerning the prosecution of sleep deprivation as torture, which have laid much of the groundwork for how torture and other acts of CIDT are prosecuted.³⁸ Violation of the Eighth Amendment's prohibition against cruel and unusual treatment might be overlooked if a government entity deems the practice justified by emphasizing that the penological purpose must specifically align with the prisoner's situation.³⁸

Additionally, the lack of a definitive sleep deprivation threshold for torture set by higher courts has contributed to ambivalence in addressing the issue. Despite medical evidence affirming sleep deprivation's cruelty and inhumanity, the absence of a clear legal boundary has left room for interpretation that potentially overlooks violations of the Eighth Amendment in instances of extreme sleep deprivation. In a petition for a *writ of certiorari*—a petition by a higher court to a lower court to review a case—to the United States Court of Appeals for the Ninth Circuit, petitioner Neil Grenning noted: "It's an easy path to ambivalence, despite undisputed medical evidence that it's 'cruel and inhumane,' because no higher court has set a threshold. No court has said, 'This is too much, this is wanton infliction violating the Eighth Amendment.'"³⁸ Additionally, as Hector Heurtas' case exemplifies, evidence of intentionality can be difficult to prove, making the practice insidious.²

While some international conventions have recognized and condemned sleep deprivation as a method of torture or abuse, prosecutions specifically targeting sleep deprivation as a stand-alone crime have been less common. In some cases, instances of sleep deprivation have been included as part of broader charges related to torture or ill treatment, but direct prosecutions solely focused on sleep deprivation are relatively rare in international courts or tribunals. Instances in which sleep deprivation was categorized as torture include reports on Indonesia, Iran, Jordan, Libya, Saudi Arabia, Turkey, and Pakistan, where it was explicitly classified as a "common torture method" or included among other recognized torture methods like loud music.³² Despite sleep deprivation being acknowledged as a prevalent method of psychological torture, finding corroborating documentation of these practices has hindered its adequate recognition by courts and quasi-judicial bodies like UN treaty bodies. In fact, Appendix M of the Army Field Manual for Human Intelligence Collector Operations No. 2-22.3 continues to permit isolation, sensory deprivation, and sleep deprivation, which can constitute torture or CIDT as defined by UNCAT and US law.³⁹

Legal Definitions and Clinical Assessment

To enable more uniform interpretation of sleep deprivation as torture, medical professionals must provide clarity regarding the extent of pain and suffering experienced by an individual who underwent intentional sleep deprivation to assist courts in assessing whether a specific instance of sleep deprivation meets the threshold of torture. The American Medical Association states that "[a]s citizens and as professionals with specialized knowledge and experience, physicians have an obligation to assist in

the administration of justice.”⁴⁰ To successfully fulfill this obligation, physicians may testify as expert witnesses in cases prosecuting sleep deprivation as torture. This testimony would serve to show that prolonged sleep deprivation does in fact deserve the “special stigma” of torture due to the very real physical, mental, and emotional impacts it has on its victims.

In a court setting, a medical expert testifying to establish that sleep deprivation amounts to torture would provide a detailed overview of the case, including the circumstances surrounding the sleep deprivation experienced by the individual, such as its duration, the context in which it occurred, and the techniques used to cause sleep deprivation. The expert would additionally discuss the methods used to assess the physical and psychological effects of sleep deprivation on the individual. This discussion might include descriptions of physical examinations, medical tests, and psychological evaluations conducted to evaluate the individual’s health status and well-being. The expert would present their findings, highlighting any physical or psychological symptoms observed in the individual as a result of sleep deprivation. The gold standard for conducting and documenting such forensic evaluations is the Istanbul Protocol.⁴¹

Based on their findings and expertise, the expert would provide their opinion on the severity of the effects of sleep deprivation on a given individual. The medical expert’s opinion would allow the court to understand the severity of the specific sleep deprivation a person endured, its effect on a given person’s physiology, and the sequelae that resulted, thus providing clarity to the courts as to whether or not a given individual’s experience meets the threshold for torture.

Conclusion

International definitions of torture, such as that of the UNCAT, emphasize severe pain or suffering, intentionality, specific purpose, and official capacity. The justification exemption for CIDT used in the United States¹⁷ is a false argument. There is no significant difference between torture and CIDT from a psychological or neurobiological perspective. Torturing individuals through sleep deprivation or any other means of cruel, inhumane, or degrading treatment as a means to glean confessions or important information does not yield reliable information. And since that information has no value (which, even if it did, we feel would not justify the torture), then the only purpose of the torture or CIDT is to intentionally harm someone, which, by definition, is not a justifiable exemption.

Courts internationally and in the United States have recognized sleep deprivation as cruel and unusual punishment, constituting torture. Sleep deprivation, achieved through techniques like prolonged interrogations and acoustical bombardment, causes severe mental and physical consequences, including increased anxiety, impaired cognitive function, and increased cardiovascular risk. Particularly in light of the subjective nature of mental suffering, the frequent absence of obvious physical evidence, and the purposeful lack of documentation of such evidence by the perpetrators, it is imperative that **medical experts bridge the gap** between science and the law, testifying to the specific negative effects of sleep deprivation on a given person and thus clarifying thresholds at which maltreatment amounts to torture.

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