



Society for the Study of Peace, Conflict, and Violence

Division 48 of the American Psychological Association

Dear Colleagues,

The Executive Committee of the Society for the Study of Peace, Conflict, and Violence: Peace Psychology Division 48 (APA) was recently asked by Dr. Gerald Koocher to provide clarification concerning the use of the term "coercive interrogations." Dr. Koocher asks a valuable question and we would like to thank him for raising the issue.

Issue of Definition

Issues of definition are always tricky as they fall within multiple contexts, serve different functions, and are subject to various socio-cultural understandings. This is all the more true when dealing with politically and emotionally charged topics such as terrorism.

There has been much debate over terms such as "coercive interrogation" and "torture" or the more euphemistic term, "counterresistance strategies." Principally, the debate has taken place in the theatre of the press as well as in legal circles both domestically and internationally. This debate will go on for some time. Certainly, international human rights law is relatively new, developing, and evolving. Currently, the International Tribunals concerning the genocides in Rwanda and the former Yugoslavia demonstrate the difficulties associated with definition. Genocide would seem to be a definition-easy concept and yet, it is a legal sticky-wicket functionally. Thus, many individuals end up being prosecuted for "crimes against humanity" -a broader catch-all term instead of charges of genocide. The term "coercive interrogation" is even less transparent. Therefore, Dr. Koocher does not ask an easy question.

Legal Definitions

Several legal definitions of "coercive interrogation" have been put forth that address the question but do not definitively define the term.

Parry (2004) cites the cases of *Arizona v. Fulminante*, 499 U.S. 279, 288 (1991) and *Colorado v. Connelly*, 479 U.S. 157, 164 (1986) in defining coercive interrogations as one in which an individual's "will is overborne" or the interrogator's conduct could be described as "oppressive" or "overreaching." Parry goes on further to state that coercive interrogations need not include actual harm but can also include the threat of harm or adverse consequences to self or others, the promise of leniency, certain forms of deception, and attempts to "break the will" of the individual being interrogated (p. 63-64). The traditional definition as cited in the *Miranda* ruling is to define coercive interrogation

as practices that would "shock the conscience" of the average individual.

The Geneva Conventions include anything that involves "cruel, inhuman and degrading" treatment.

It should be noted that in a letter delivered to Congress, over 450 legal scholars signed a letter stating, "Military and intelligence officials have acknowledged that official U.S. policy now involves use of coercive methods that are morally questionable and that may violate international and domestic law" (Bartholet, Desan & Cavallaro, 2004, para. 7).

Ethics vs. the Law

The above are all discussions of law. It is important to realize, however, that psychologists are not just bound by the law but also by specific ethical standards. A higher standard applies and thus a legal vindication (particularly in areas where it is still being debated whether international or domestic laws have been broken) does not imply an ethical vindication. Thus, an answer of "no laws have been broken" (and in this case, the matter is still open) does not imply that "all ethical standards have been upheld."

Categorization of "Coercive Interrogation"

The term "coercive interrogation" is an important addition to any statement concerning the interrogation of prisoners and the use of torture with prisoners. This is in part because of definitional concerns. Early on in the establishment of detention centers, the Bush administration defined torture as any action causing pain "of an intensity akin to that which accompanies serious physical injury such as death or organ failure." While this exceedingly narrow definition has subsequently been retracted, the lack of definition for the word "torture" necessitates the addition of the term "coercive interrogation" as it includes those areas of destructive interrogative techniques that fall outside prohibitively narrow definitions of torture.

Based on the information above, "coercive interrogations" can be loosely categorized as follows:

1. Interrogation that involves physical torture.
2. Interrogations with clear implication of threat and harm with an overt physical component -the so-called torture-lite (e.g. hooding, sleep deprivation, nudity with sexual humiliation, loud music, cold exposure). This often involves a physical component but is usually not defined as physical torture as it is deemed as causing no real physical harm but is rather much more harmful psychologically. Thus, it probably would not be defined as physical interrogation but is clearly a case of extreme coercive interrogation.
3. Interrogations with clear implication of threat and harm without an overt physical component -also under the rubric of torture-lite. Examples could include drawing on individuals phobias in an effort to terrorize a detainee; threats of severe harm or adverse consequences to self (e.g., death, physical torture); sexual humiliation

drawing largely on cultural norms; defilement of religious objects; forced listening to baby cries, etc. Each of the above results in extreme physical arousal, not deemed to cause lasting physical harm, but can be very psychologically damaging.

4. Interrogations that may cause psychological harm as they involve severe or "oppressive" threat, disparagement, shaming, bullying, deception, etc. This is where the "shock the conscience" rule comes into play. Not considered legal for U.S. interrogations as they may lead to violations of 5th and 14th amendment rights related to due process and self-incrimination. This is a very gray area in the law that is constantly evolving and resulting in changes to Miranda. Confessions may be excluded on the basis of such interrogations.
5. Interrogations that may cause psychological harm as they involve threat, disparagement, shaming, bullying, deception but are considered to be within the legal toolbox of interrogation within the U.S. criminal justice system.
6. Non-harmful interrogations - basic questioning of prisoners.

Relationship of the Categories to the *Statement Concerning the Use of Torture with Prisoners*

All of the first five categories above raise ethical issues concerning psychologist's involvement in interrogations due to the issue of harm, physical and/or psychological. However, for the purposes the *Statement Concerning the Use of Torture With Prisoners*, the Society for the Study of Peace, Conflict, and Violence: Peace Psychology Division 48 Executive Committee is immediately concerned with categories 1, 2, and 3 in relation to the use of coercive methods during the interrogation of prisoners at Guantanamo Bay, Iraq, and elsewhere. There may be a point with categories 4 and 5 should be addressed by the APA but the apparent involvement of psychologists in the most egregious forms of coercive interrogations needs to be addressed immediately.

Final Thoughts

Lelyveld (2005), a *New York Times* reporter summed it up an interesting definitional guide and legal compass in an article about coercive interrogation and torture when he wrote:

The Israeli Supreme Court's landmark decision didn't attempt to weigh broken arms against broken feet, sleep deprivation against stress positions, torture lite against torture heavy. It declared categorically that no form of highly coercive interrogation is authorized by Israeli law, that all forms were illegal under international covenants Israel had signed. "Human dignity," wrote Aharon Barak, the president of the court, "also includes the dignity of the suspect being interrogated. . . . Violence directed at a suspect's body or spirit does not constitute a reasonable investigation practice." What's illegal in a police station in an ordinary criminal case, the ruling said plainly, is illegal in one of the security service's interrogation rooms in a case of terrorism.

Lelyveld uses the term "torture lite" as his descriptor for "coercive interrogation. Nonetheless, sleep deprivation, "water boarding", threats of harm, manipulation of an individual's fears, defilement of an individual's religious objects, humiliation through nudity or sexual innuendo, hooding, or a host of other similarly destructive interrogation techniques have been described in relation to the treatment of prisoners at Guantanamo Bay, Iraq, and elsewhere. These and other coercive methods may leave no physical scarring but are nonetheless, destructive and harmful. As such, psychologists should not be engaged in the application of psychology towards the degradation, coercive interrogation, or physical/mental torture either direct or indirect of others including prisoners detained at Guantanamo Bay, Iraq, or elsewhere.

It should be noted that the Israeli Supreme Court decision has not eliminated the use of torture or coercive interrogations in the State of Israel. This points to the difficulties associated with the implementation of law when fear and political expediency may overshadow the legal rights of an outgroup. Our hope and expectation is that the APA as both an organization and as a membership will not let either fear or political expediency shape decisions about the ethical treatment of other human beings but will rather meet the "Call for Action" outlined in the Society for the Study of Peace, Conflict, and Violence: Peace Psychology Division 48 Executive Committee *Statement Concerning the Use of Torture With Prisoners*.

Sincerely,

The Executive Committee Society for the Study of Peace, Conflict, and Violence: Peace Psychology Division 48

References

Bartholet, E., Desan, C. & Cavallaro, J. (2004, June 16). *Letter Concerning Human Rights Abuses in Iraq, To the United States Congress*. Retrieved July 26 (cached copy) from <http://www.iraq-letter.com>.

Lelyveld, J. (2005, June 12). Interrogating ourselves. *New York Times*, Section 6, p. 36.

Parry, J. T. (2004). *Constitutional interpretation and coercive interrogation after Chavez v. Martinez*. University of Pittsburgh School of Law Working Paper Series, Paper 2, Retrieved July 26, 2005, from law.bepress.com/cgi/viewcontent.cgi?article=1001&context=pittlwps

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