

Dialogus

"A Free E-mail Newsletter – Furthering the Dialogue to Better Serve Survivors of Torture"

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Special Edition on Impunity

Dialogus provides a forum for members of the torture treatment centers in the U.S. who serve survivors of torture to participate in a dialogue about innovative approaches in their work with survivors as well as share resource information, news, and solutions to challenges we face. We hope that you will enjoy being part of this forum and community. However, if you wish to unsubscribe to Dialogus in the body of the text, just type: Unsubscribe (your e-mail address).

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Editorial:

"About Impunity"
by Ana C. Deutsch, MFT

A renewed interest in the issue of impunity emerged three years ago after Pinochet's arrest in London in 1998. The world of human rights rejoiced with the possibility of indicting perpetrators of genocide and torture. The issue of impunity has had an impact on our work as clinicians and

human rights activists. A new awareness has emerged of the importance of the theme of impunity and its link with our clients' well being. We now perceive the need to incorporate the discourse of impunity into our Centers.

Impunity is an indicator of an "anomie" in the society where it exists. In any normal society, crimes are supposed to be punished. The occurrence of crimes sponsored by the state and followed by impunity indicates a fracture in the social fabric and a failure to protect citizens' rights, including a breakdown in the implementation of the Law.

Impunity bears witness to a serious dissociation between the social relations and what substantiates those relationships. The need for punishment is essential to preserve culture and civilization, and to guarantee the conditions for the psychic structure. Impunity is, without a doubt, a failure of justice that generates further delinquent behavior, and destabilizes the psychic structure.

From a historical perspective, impunity facilitates the perpetuation of a society that is sick, hypocritical and corrupt. Impunity facilitates the repetition of abuse of power, and the abuse of human rights.

From a psychosocial perspective, impunity legitimizes violence. Impunity becomes a model of social behavior that sponsors violence. We are seeing this in countries in the aftermath of war in which, despite the establishment of peace accords, impunity reigns. In these situations we see that violence has become rampant and is now so ingrained in society that it seems impossible to stop it.

Impunity also has an impact on the human mind. It sends a message to people that turns upside down the values, norms and rules in which the human mind is constructed. I am referring to universal values (e.g., torture is a crime) and the values referred to in the United Nations' Universal Declaration of Human Rights. Impunity instigates fear and thoughts of vengeance and distrust. With this issue of *Dialogus* we would like to continue the debate started in the July Clinical Institute. We became aware that we could no longer ignore the importance of impunity in our daily work. How do we incorporate this into our clinical work? There is a consensus that bringing the perpetrator to justice may help the victim in their process of coming to a closure of her/his trauma and facilitate recovery. And yet, our clients are far away from the scene of the crime and we assume that this distance facilitates their recovery. We encourage our clients to "look forward toward the future" and to "start a new life."

However, we now know that our clients in the U.S. are no longer far away from many of their torturers and that impunity exists in the U.S. for these torturers. In the accompanying article, Jerry Gray gives us information about perpetrators here in the U.S. and poses the question: How will we work with this knowledge?

There is no simple answer to this problem. We encourage our colleagues to continue this debate by sending their comments, opinions, and thoughts to *Dialogus*.

Article:

“The Number of Human Rights Criminals in the United States and the Implications for the Torture Treatment Movement”

by Gerald Gray, LCSW, MPH

Introduction:

In the West there has been much pressure put on other countries to bring their human rights criminals to justice, and on all sides there has been debate spent on whether trials or truth commissions are the best way to affect this. The purposes argued for bringing some form of justice are various: to restore trust within societies by restoring fairness and control, to serve as warning and thus be preventive, to relieve grief through information (especially as regards disappearances), and to prevent civil strife by achieving all the above.

What is missed in these debates is the fact that—along with victims-- the West receives huge numbers of human rights criminals, --has the legal wherewithal to do something about them, and does virtually nothing. For instance, the U.S. signed the U.N. Convention Against Torture in 1994, has enabling legislation allowing up to 20 years in prison for convicted human rights criminals, and has not brought a single criminal prosecution under the CAT. This is not missed by those in countries where politically motivated human rights crimes are carried out. In this way the West undermines its moral concern, encourages human rights crimes, and leaves abroad in the world an enduring hopelessness. Moreover, there is an additional danger to which the West has opened itself in behaving this way, a danger peculiar to the host countries themselves. I shall say more about this later in this article.

One of the strongest moral critics of human rights violations has been the United States. It is also one of the world’s biggest countries, and one that now apparently receives one of the largest groups of human rights criminals. Given its moral importance, its power, its size, its domestic inaction, and now the possibility of estimating its human rights criminal element, it is very important to examine the U.S. as a prime example of the kind of problem the West contributes—even at the expense of the work of the torture treatment centers.

The basis for calculating the presence of criminals in the U.S.:

Until now, to my knowledge, neither official nor unofficial figures were available on the numbers of human rights criminals in the United States. However, there are recent Canadian figures from which we may extrapolate; in 1998 the Canadian government committed \$46.8 million CN for a three-year program to discover and act against human rights criminals who entered Canada, or were trying to (1). We may begin by comparing Canadian with U.S. admissions of other nationals which results in a ratio of four entering the U.S. to one entering Canada (2).

The other important variable to know in constructing U.S. figures is how long such criminals have been entering the U.S. To my own knowledge, they have been coming in at least since the end of the Vietnam War—27 years. I personally have encountered two groups from that long ago: one is members of the Savakh, the secret police of the Shah of Iran, and the other is certain officers of the South Vietnamese Army. Now, of course, we know of others who entered from Latin America and elsewhere.

In three years, the Canadians appear to have discovered an average of 450 human rights criminals a year on Canadian soil (this includes those excluded, those removed, and those in process of removal) (3). If we multiply that number by four (using the ratio number) to get an average yearly number of those successfully arrived on U.S. soil, we get 1,800 a year. If we multiply that by 27 years, we get 48,600 illicitly landed as refugees or immigrants in the U.S. (4). This does not mean all these people are loose in the U.S.—over 27 years some will have died, some have been arrested for other crimes, and some left for other countries. But many of them must still be here, and in fact the total of those who have entered is necessarily higher (5).

There are several factors that reasonably increase this number. First, the Canadian figures cannot, by definition, include the numbers who escaped detection—and so these numbers cannot help the U.S. estimate, but must increase it. It is noteworthy that the Canadian figures in fact increased dramatically from the first to the second year of their work. Immigrating individuals who were denied entry to Canada for human rights abuses increased 90%, refugee exclusions increased 40% and the government intervened in refugee proceedings on human rights grounds 119% more. Removals from Canada increased 41%, and the overall total of both refugee and immigration cases increased 51% (6). It appears that either the influx of criminals increased, or with experience the government discovered more criminals per year, in either case indicating perhaps a large undetected group.

Second, the U.S. is a wealthier country for criminal activity—many human rights criminals engaged in a variety of other criminal activity before coming, and many have continued—this is the problem government inaction brings to the West, to which I alluded earlier (I will return to this).

Third, there are more and larger refugee and immigrant communities in the U.S. in which criminals can hide, and which they can exploit. For instance, between 1993-1998, 83,247 Balkan refugees alone entered the U.S. (7).

Fourth, U.S. foreign policy has been different than Canadian, and has involved the U.S. in receiving and sometimes even protecting human rights violators who have worked for collaborative foreign regimes or U.S. intelligence agencies.

Finally, the U.S. is not known for having a criminal-hunting apparatus in place like the one in Canada—and those that exist in the U.S. in a very diminished form have no parallel support (8). There is no way presently to estimate how many criminals have entered the U.S. above that number; I assume it must be considerable, for reasons given. In a U.S. population of over

281,000,000, the presence of more than 48,600 human rights criminals coming in over 27 years seems unfortunately within belief.

The effect of lack of criminal prosecution:

The refugee and immigrant communities in the U.S. very often know which human rights criminals are in the U.S., where they are, and even what criminal activity they are currently engaged in (9). However, I have found the communities do not report the criminals for several important reasons: they have not trusted North Americans with their security issues—not even staffs at torture treatment centers; they have not believed anything would or could be done about presences; and even when they know some legal action might be taken, they believe it would be costly or even counter-productive.

To explain: the communities have a sense of when a particular criminal is currently dangerous and in what ways. The communities also know that if they report prior or current criminal behavior, while their names may become known to the criminals through the justice system, the criminals currently will receive short sentences which do not protect informants, or the criminals will be deported—often back to countries of origin where they can attack families of the informants.

I will give two examples. Three years ago, a national U.S. intelligence agency somehow suspected—what was the case—that a human rights criminal lived within a certain refugee community in the Western U.S. Without having established any relationship of trust in the community, without regard for the community's known history of abuse at the hands of intelligence agencies in the home country, without discussing possible consequences, agents suddenly appeared and asked if the community was afraid of anyone dangerous among them. The result was that the agents were lied to.

In another case, I was told by a refugee, after some years' work together and friendship, that there were in the U.S. some 15 concentration camp guard-torturers from her country in the U.S. The community knows where each is and their current criminal activities—but my informant did not want any action taken because there is no criminal prosecution presently which would protect her and, she said, if anything were done at least three of the guards would assume she reported them and would kill her. She discovered that she lives in the same city as one of the guards.

The types of criminal activity so far reported to me for human rights criminals from various communities are: drug running, illegal gun sales, prostitution rings, extortion, and stolen car rings. Undoubtedly there is more (10). This means the entire citizenry is at risk, not just the communities—thus vitiating even the argument I have sometimes heard from government prosecutors, that criminal prosecution in human rights is too expensive. And the communities do not favor deportation or blocking entry and will generally not cooperate in reporting because both current (Canadian and U.S.) practices keep criminals in the home country. Without proper support of the communities—prosecution under the CAT, for instance, and witness protection programs such as are given in Mafia and gang cases—the communities and the remaining citizens are prevented by the government from helping one another.

Other effects of inaction may be deduced: there is no national large-scale, consistent action that may be preventive—thus even undercutting the work of the war crimes tribunals that the West supports. Where then does this leave debates on tribunals versus truth commissions? And how is trust restored, even by treatment centers, if the Western states permit or even seem to encourage a threatening presence and its consequent carrying of the past into the present in feelings of fear and hopelessness on one hand, or a nationalism on the other which harbors a rageful wish for revenge?

The role of the treatment centers in change:

It is now commonly understood by the torture treatment centers that the general purpose of modern torture is to create such distrust between people that building and sustaining democratic organizations is impossible. It has followed from this that what is therapeutic is anything that restores trust—perhaps something we well-meaning therapists in particular had to learn. However, this has apparently long been understood by those who direct one of the prime sources we have all depended on for support for treatment, The UN Voluntary Fund for Survivors of Torture. In a 1995 report to the UN General Assembly, there is support for “legal assistance projects designed to defend the right of torture victims to restitution, indemnification and rehabilitation before national courts. Such official acknowledgment of the torture suffered is an essential stage in the psychological rehabilitation of victims”.

I want to make one level of understanding of that remark quite specific. We may say in psychological terms that modern torture “seeks to destroy the good mother in us”. That is, to destroy that part of the victim which in earliest childhood learned trust by experiencing care, nurturing, guidance and the other elements that make relationships with others possible. Destroy that internalized other completely, and all people are seen as always dangerous. I believe this is why those in doctors’ garb are brought into torture chambers, why friends and family are brought in, why women too are trained as torturers. I believe this is another part of why those in command of torture have induced clinicians to help design torture.

I have said earlier that I learned that for security reasons, torture survivors did not bring even to those of us in the treatment centers the fact of the presence of torturers. I am afraid there was another reason: we did not want to know—and this has been realized by the survivors. The entire West has known for years about Nazis and even other human rights criminals escaping to second lives, and we know ordinary criminals do this. Is it really believable that we did not imagine it happening in our very midst? We never asked.

The torture treatment centers will never treat all the survivors. In the U.S., compared to the numbers of survivors, the centers are small and few, and even as they grow the use of torture in the world grows. Moreover, even many survivors who hear of the centers just cannot bring themselves to come in (all clinicians have experienced survivors’ families hanging back). The centers may hope to reintroduce trust into the refugee and immigrant communities by having the centers’ presence known and thus having it known that there are some trustworthy people. We are a long way from succeeding at that, partly because we are not seen as actively protecting our clients in the U.S. from all those here who tortured.

But governments are very large and visible. Governments will be seen if they take action, and—like it or not—probably especially if they take action against torturers as a way of helping victims and potential victims, even more than if they provide services or funding for service. I think this is so because everyone understands that without going after the source, there will have to be unending service picking up the pieces. Ironically to some, it is the governments that can restore trust on the widest scale, as action against some torturers threatens action against any.

However, treatment centers need not be without influence on our governments about the problem of impunity. It is the torture treatment centers that are the repositories of knowledge of torture. It is the centers—or some of their staffs—which can be a bridge between the government and the communities, educating the government on the nature of the problem, its effects, and possible solutions that can enlist the participation of the communities, to everyone's benefit. To do this, the centers will have to do what their therapists in torture treatment had to do—acknowledge that their role does not always have primacy in being restorative, at least not until they also work more completely with governments against human rights impunity (11).

References:

1. The annual reports of the Canadian War Crimes Program (1999-2000) are available on government websites:

www.cic.gc.ca, and canada.justice.gc.ca/Publications/reports/cwcp_en.html. A summary of the Canadian program should appear in "Modern War Crimes: Canada and the Evolution of International Humanitarian Law", to be published by the Centre for Foreign Policy Studies, Dalhousie University, Fall 2001.

2. Information for foreign entries came from several sources: Datapedia of the United States 1790-2000 by George Kurian, Bernan Press; Statistical Abstract of the United States, 1996 edition; and Statistics Canada for the year 2000. Three important caveats: first, I have not included undocumented persons in the totals since there are no accurate figures, but they would have to be much higher in the U.S., which is closer to Latin American sources for the undocumented and has more communities supporting them—counting this number would increase the ratio and thus the numbers of criminals along with people in genuine need. Second, I could find no refugee figures for Canada between 1974 and 1994, so estimated an average of 25,000 a year based on recent figures. Third, Canada and the U.S. have not issued comparative statistics on admissions for 1999 and 2000, so total admissions for 27 years have to be estimated based on a 25 year average.

3. CIC Canada: Canada's War Crimes Program, Second Annual Report 1999-2000, pp. 11-12. "Excluded" seems to mean "denied status once in Canada"—so this group of people were on Canadian soil, not excluded abroad, which group is much larger: 855 over the first two years, with a watch list developed for 1200 more. Note that even if we assume the U.S. takes annually no more than Canada, at 450 a year that means over 12,150 human rights criminals landed in 27 years. Also note that all groups listed as human rights criminals usually or by definition do torture directly or indirectly, e.g. those involved in disappearances, concentration camps, genocide, murder, etc.

4. For research purposes, certain variables will have to be kept in mind in future to see if the average holds, especially the question of when and if there were ebbs and flows of people coming to Canada and the U.S. in different years from countries using torture for political control. Each country's involvement in overseas war undoubtedly also differently influences policy decisions and the admission of certain groups; U.S. involvement in Vietnam and Central America certainly was accompanied by special programs of admission—which would include torturers, accidentally or not.

5. An alternative method of figuring the U.S. total is to calculate what percent the Canadian criminal figure is of their total admissions—about .3% over 27 years--and then calculate .3% of the U.S. admissions over 27 years. That result is about 60,000 criminals.

6. CIC Canada: Canada's War Crimes Program, Second Annual Report 1999-2000, op. cit. I have no figures yet on percentage increases from the second to the third year in these categories.

7. Boston Globe, May 2, 2001.

8. The two agencies perhaps primarily dealing with the presence of human rights criminals in the U.S. are the Immigration and Naturalization Service, and the Office of Special Investigations. The INS National Security Unit seems hard-working and reasonable, but in the larger population of the U.S. it has nowhere near funds or personnel comparable to the Canadian effort. The OSI is limited to hunting Nazis, who are rapidly dwindling in number from old age.

9. That the communities in the U.S. know where their human rights criminals are, is shown in part by the civil lawsuits brought by clients of The Center for Justice & Accountability, the Center for Constitutional Rights, and other sources against resident or visiting defendants.

10. The work of a Salvadoran human rights group dedicated to locating "disappeared" children suggests the possibility of an additional area of criminality. The Asociacion Pro-Busqueda de Ninas y Ninos Desaparecidos (www.probusqueda.org.sv) discovered that children of guerillas and the poor who might support them were not just occasionally given to a few infertile military couples. Instead, there was a profitable trade in the sale of many children. One wonders about some of the many disappearing children in the U.S. being taken by experienced, well-connected practitioners of this trade.

11. A most hopeful sign in this direction is the current collaborative effort between some U.S. anti-impunity law firms and torture treatment centers to educate Congressional staff drafting the Anti-Atrocity Alien Deportation Act.

(Note: The author is indebted for research assistance to Margaret Marumoto.)

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CALL FOR SUBMISSIONS

How to Contribute to Dialogus

Dialogus encourages submissions from those who work with survivors of torture.
We welcome your contributions of:

Issues related to treating survivors of torture: articles or informal pieces on various innovative clinical interventions and programs, how you handled challenging cases or situations, policies, and other information relevant to work with survivors.

Informal interactive articles that explore observations and challenges, and pose questions to the other members of this e-newsletter forum

History of your program