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# THE ERADICATION OF TORTURE: THE IMPERATIVES OF GENDER AND EDUCATION

Betty A. Reardon\*

## I. ERADICATION: THE MOST EFFECTIVE FRAMEWORK FOR THE PREVENTION OF TORTURE

The core assertion of my presentation is that commitment to the eradication of torture, the full deracination of its multiple roots, is required for its effective prevention. The roots of torture reach down to deep cultural levels. A generalized culture of violence in American society provides fertile soil for torture. We need to turn over that soil and sift through all the elements of violence that feed the roots. Absent the intention to eradicate torture and the willingness to strive toward profound cultural as well as political change, measures for prevention will prove to be at best palliatives, likely of limited duration. This assertion arises from three premises that lead me to conclude that only by framing and assessing proposals for prevention within the goal of eradication can we move toward the requisite transformation of worldviews, value systems and social conditions that have contributed to the virtual normalization of cruelty that makes torture possible. I discern elements to support this assertion, and complement my recommendations from other symposium presentations.

The necessity to face the physical and human realities of torture, as they have been vividly described by Patricia Viseur-Sellers, gives poignancy to the argument that an *affective* understanding of actual suffering must inform any truly *effective* legal argument that rape is an instrument of torture. Rhonda Copelon's argument that domestic violence constitutes torture clearly illustrates the gendered nature of this form of forceful coercion and repression, still perceived as beyond the realm of public concern. It is a significant component of the "continuum of violence" identified decades ago by feminist peace researchers as they analyzed the links be-

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tween gender violence and the institution of war.<sup>1</sup> Copelon's argument is consistent with the feminist assertion that the public-private distinction has served to perpetuate an essentially patriarchal public order, as private violence is ignored or deliberately hidden from the public<sup>2</sup> as had been the expectation with the cases of torture discussed here today. Justice Sachs's moving account of how deeply held human values preserved the humanity of the anti-apartheid movement teaches us that ethics do have a role to play in any political struggle, even the most conflictive. [CUNY School of Law] Dean Anderson's comments on the failures of education with regard to necessary public knowledge required for the prevention of torture calls us all to the civic responsibility to remedy this failure. These contributions to this symposium embolden me to put forth my own assertions about the roots and deracination of torture, beginning with three basic premises:

First, torture is the most severe and apparent element in a general system and culture of violence, the tip of the patriarchal iceberg that Australian scholar, R.W. Connell refers to as the global gender order.<sup>3</sup> Effective prevention calls for a comprehensive view of this general system of violence and its significant gender dimension, framed within an intention to undertake a process of larger cultural and systemic change of which the eradication of torture is a signature campaign.

Second, the most necessary measures for its eradication are in the intellectual and moral formation of a citizenry to whom torture is abhorrent—viscerally, ethically, pragmatically; unacceptable as a means to any end, including those deemed as socially positive or politically necessary, even to “deliver us from [the] evil”<sup>4</sup> of terrorism. Such a citizenry would not tolerate a practice by which they are repelled, because they are capable of informed reflection on its violation of fundamental human ethics and national values, as well

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<sup>1</sup> International Peace Research Association Consultation on Women and Peace, *Conclusions of the Consultation on Women, Militarism and Disarmament*, Gyor, Hungary, 1983.

<sup>2</sup> Rhonda Copelon, *International Human Rights Dimensions of Intimate Violence: Another Strand in the Dialectic of Feminist Lawmaking*, 11 AM. U. J. GENDER SOC. POL'Y & L. 865, 866 (2003).

<sup>3</sup> R.W. CONNELL, GENDER 111 (2002).

<sup>4</sup> See David E. Sanger, *A Nation Challenged: The President; Domestic Security Spending to Double Under Bush Plan*, N.Y. TIMES, Jan. 24, 2002, at A11. In addition to the President's rhetoric of “evil,” conservative ideologues often cite the systemic practice of torture of “evil regimes” such as North Korea as a justification for more aggressive foreign policy, glossing over the United States' own employment of torture tactics. E.g., SEAN HANNITY, DELIVER US FROM EVIL: DEFEATING TERRORISM, DESPOTISM, AND LIBERALISM 194 (2005).

as international norms, and are fully aware of the inefficacy of torture to achieve the purposes by which it is rationalized.

Finally, effective strategies to achieve any measures of prevention with the requisite framework of eradication call for a comprehensive and coordinated plan of action that is simultaneously legal and political and cultural and educational. It will require long-term, well planned collaboration among educators, lawyers and community groups committed to advancing the common welfare of our people; preserving the constitutional system established to achieve it; and a broad-based learning-action program such as those advocated and practiced by human rights and peace educators.

## II. A PATRIARCHAL CULTURE OF GENDERED VIOLENCE

The advocated learning-action program would be directed at understanding torture as both a consequence and a component of the larger system of socially sanctioned violence in which it is embedded. Torture is not an aberration. It is a manifestation and a consequence of socialization and desensitization to violence that characterizes the American society, and to some degree all the nations of the patriarchal global gender order.<sup>5</sup> This is an order which manifests and maintains itself through violence, vulnerability and victimization, processes I refer to as gendered violence. It is a more generalized and pervasive violence than that usually identified as gender or gender-based violence (e.g. sexually inflicted or experienced or committed because of the sex of the victim), such as the types of abuses designated in General Comment No. 2 as “gender-based violence.”<sup>6</sup>

Violence, as conceptualized by peace researchers, is not limited to Webster’s, “physical force used so as to injure.”<sup>7</sup> It comes in many forms that cause injury to human well-being and human dignity.<sup>8</sup> I argue that all the forms of violence as classified by peace research, including structural and cultural violence have a gender dimension, and all serve in one way or another to re-enforce the gender order. The definition of violence I have adopted for my

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<sup>5</sup> See generally BETTY A. REARDON, *WOMEN AND PEACE: FEMINIST VISIONS OF GLOBAL SECURITY* 39–41 (1993).

<sup>6</sup> U.N. Office of the High Comm’n for Human Rights [OHCHR], *Comm. Against Torture, Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, General Comment No. 2: Implementation of Article 2 by States Parties*, ¶ 18, U.N. Doc. CAT/C/GC/2 (Jan. 24, 2008) [hereinafter *General Comment No. 2*].

<sup>7</sup> MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY (11th ed. 2003).

<sup>8</sup> REARDON, *supra* note 5, at 39–41.

work in peace education is that it is “intentional avoidable harm inflicted to achieve a purpose of the perpetrator.”<sup>9</sup> In most cases the purpose can be achieved by other means, as is the case with torture.

Degrees of vulnerability are determined largely by how distant and distinct people are from the identifiers and attributes of power. In the present order the center of global power lies with techno-industrial males, mainly European.<sup>10</sup> While the ethnic profile is changing, power as access to resources—economic and strategic—is not.<sup>11</sup> Those with most limited access to economic resources and no access to the major instruments of violence are lowest in the order.<sup>12</sup> While there are men at the lowest levels and women at every level, mainly through their relationships with men, women and children are the majority at the very lowest level.<sup>13</sup> They are most vulnerable and most subject to systematic—even normal—abuse and cruelty.

The victims in this system, who are seriously injured and often deprived of life as consequence of their vulnerability, are the most visible. They are the emblems of the majority who remain invisible, overlooked for having been denied human worth by a society which tolerates their vulnerability, or whose actual conditions are obscured (i.e. ignored by media and policy makers) because their vulnerability serves the interest of the gender order. When victims become visible, as has been the case in Abu Ghraib and Guantánamo,<sup>14</sup> the society is challenged to rationalize the abuse or attribute it to extra-society forces, as when evil, “the other side” threatens good, “our side.”<sup>15</sup>

Viewed within this context of system-based vulnerability, the gender-based types of violence listed by the Comment are more than a list of specific misogynistic crimes.<sup>16</sup> They are particular manifestations of this general system of violence through which cultural and institutional patriarchy are manifested and maintained.<sup>17</sup> These manifestations give rise to and reinforce each

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<sup>9</sup> BETTY A. REARDON, EDUCATION FOR A CULTURE OF PEACE IN A GENDER PERSPECTIVE 35 (Paris: UNSECO, 2001).

<sup>10</sup> See Educardo Porter, *Study Finds Wealth Inequality is Widening Worldwide*, N.Y. TIMES, Dec. 6, 2006, at C1.

<sup>11</sup> *Id.*

<sup>12</sup> See IRIS MARION YOUNG, JUSTICE AND THE POLITICS OF DIFFERENCE 53–55 (1990).

<sup>13</sup> CATHARINE MACKINNON, WOMEN'S LIVES, MEN'S LAWS 13 (2005).

<sup>14</sup> Marcy Strauss, *The Lessons of Abu Ghraib*, 66 OHIO ST. L.J. 1269, 1273 (2005).

<sup>15</sup> *Id.* at 1279.

<sup>16</sup> *General Comment No. 2*, *supra* note 6, ¶ 22.

<sup>17</sup> Andrew E. Taslitz, *Patriarchal Stories I: Cultural Rape Narratives In The Courtroom*, 5

other in ways which tend to make them seem necessary or inevitable. Torture, rape and sexual abuse, domestic violence, child abuse, everyday bullying and acts of intimidation are not extraordinary and usually not random acts of violence.<sup>18</sup> Indeed, many of these acts of violence share multiple characteristics with torture. They are integral parts of a system in which—as the Comment states regarding forms of ill-treatment—all forms of violence are “interdependent, indivisible and interrelated.”<sup>19</sup> To understand and address one, we must understand and address all—taking into account the gendered nature of the entire system as well as its specific manifestations.

Gendered violence is a mechanism of the power order which not only asserts male power over female, but male power over other males lower in the gendered power order, an order in which all on lower levels are vulnerable to those higher in the order. Those who perceive this order did not need Henry Kissinger to remind us that “power is the ultimate aphrodisiac”<sup>20</sup> which no doubt meant that power makes the holder of power perceive himself as irresistibly attractive, entitled to privilege because of superior human worth, about as far from the vulnerable as it is possible to be. Significant political power can demand the respect and attention of those lower in the order that might well seek their favor

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S. CAL. REV. L. & WOMEN'S STUD. 387, 394–395 (1996) (discussing rape as a mechanism in maintaining the subordination of women).

<sup>18</sup> According to the Department of Justice in 2006 there were 255,630 incidents of rape and sexual assault. 155,720 of those incidents involved non-strangers, of which 27.4% were well known and 26.6% were casual acquaintances. U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, CRIMINAL VICTIMIZATION IN THE UNITED STATES, 2006 STATISTICAL TABLES, NATIONAL CRIME VICTIMIZATION SURVEY (2008), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/cvus06.pdf>. Furthermore, in 2005, about 28% of public and private school students ages 12–18 reported that they have been bullied at school within the past six months. U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, CRIME CHARACTERISTICS (2005), [http://www.ojp.usdoj.gov/bjs/cvict\\_c.htm#relate](http://www.ojp.usdoj.gov/bjs/cvict_c.htm#relate) (last visited Nov. 16, 2008). The Center for Disease Control provides that an estimated 1.3 million women are victims of physical assault by an intimate partner each year. CTRS. FOR DISEASE CONTROL & PREVENTION, NAT'L CTRS. FOR INJURY PREVENTION & CONTROL, COSTS OF INTIMATE PARTNER VIOLENCE AGAINST WOMEN IN THE UNITED STATES (2003), available at [http://www.cdc.gov/ncipc/pub-res/ipv\\_cost/IPVBook-Final-Feb18.pdf](http://www.cdc.gov/ncipc/pub-res/ipv_cost/IPVBook-Final-Feb18.pdf). According to the Department of Health and Human Services, in 2006, an estimated 905,000 children were found to be victims of child maltreatment in the 52 States. U.S. DEP'T OF HEALTH & HUMAN SERVICES, ADMIN. ON CHILDREN, YOUTH & FAMILIES, CHILD MALTREATMENT 2006 (2008), available at <http://www.acf.hhs.gov/programs/cb/pubs/cm06/cm06.pdf>.

<sup>19</sup> *General Comment No. 2*, *supra* note 6, ¶ 3.

<sup>20</sup> Joseph Kraft, *Secretary Henry; The Iron Law of History: “No Longing is Completely Fulfilled,”* N.Y. TIMES, Oct. 28, 1973, (Magazine), at 21.

to lessen their vulnerability, be they beautiful young women or men of lesser rank.

The gender order is an order of human value that separates the socially worthy from the unworthy. The victims of ill treatment are easily objectified in a process of moral exclusion in which the worthy feel no obligation to apply common standards of justice to the unworthy, and thereby perpetuate their vulnerability. More likely they believe that their responsibility is to discipline and punish, as were generations of children—a condition exposed by the psychologist, Alice Miller, who documented child abuse inflicted as discipline.<sup>21</sup> Discipline, especially of children and deviants, is in many more cases than acknowledged outright cruelty: accepted, even considered unfortunately necessary “tough love.”<sup>22</sup> The treatment of children in a society in which large numbers of them live in conditions of poverty, attend substandard schools and whose most positive future is likely to be in the military,<sup>23</sup> is another gross assault on the common welfare and a significant portion of the iceberg of our culture of violence.

### III. THE GENDER ORDER RE-ENFORCED BY PRIVATE COERCION AND PUNISHMENT AND PUBLIC HUMILIATION

The fate of children highlights the function of vulnerability as an essential element of the global gender order. The power of the few is built upon the vulnerability of many: the politically oppressed, the poor, the physically and mentally challenged whose fate depends upon their will and whims. The powerful present themselves to the vulnerable as responsible for their welfare and therefore obliged to control the conditions of their lives. Through several decades of analysis, feminist scholars have argued that power over others or “the other” is a significant component of masculinity in most societies.<sup>24</sup> The first other in the patriarchal order which for centuries has conceived of the normal human being as male, is female.<sup>25</sup> In the U.S. this form of masculinity is perhaps

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<sup>21</sup> ALICE MILLER, *FOR YOUR OWN GOOD: HIDDEN CRUELTY IN CHILD-REARING AND THE ROOTS OF VIOLENCE* (1980).

<sup>22</sup> See Scott Allen, *A question of ‘tough love’ v. torture*, BOSTON GLOBE, May 22, 2006, at B1.

<sup>23</sup> See Charlie Savage, *Military recruiters target schools strategically*, BOSTON GLOBE, Nov. 29, 2004, at A1.

<sup>24</sup> See JOSEPHINE DONOVAN, *FEMINIST THEORY: THE INTELLECTUAL TRADITIONS OF AMERICAN FEMINISM* 122–139 (discussing the role of the “Other” in feminist theory, starting with Simone de Beauvoir’s development of the concept) (1985).

<sup>25</sup> See Ellen Carol DuBois, Gail Paradise Kelly, Elizabeth Lapovsky Kennedy, Carolyn W. Korsmeyer & Lillian S. Robinson, *Women’s Oppression*, in *FEMINIST SCHOL-*

most readily evident in our popular culture and the news reports of pervasive violence in gender relations and other relationships between the powerful and vulnerable reported daily in our media.<sup>26</sup>

The growing field of masculinities studies has reinforced and amplified the theoretical links that interrelate socialization for masculine gender roles with aggressive assertiveness and willingness to use force.<sup>27</sup> To be a man seems to mean to be capable of bending another or others to your will, often through intimidation and the use or the threat of violence, both physical and psychological.<sup>28</sup> Lack of the will or the physical force to exert such violence consigns one to the ranks of the vulnerable—or worse—the feminized.<sup>29</sup> That ordinary, apparently “normal” persons can become torturers in prisons and detention camps, where most inmates are vulnerable is not surprising in a culture in which a seven-year-old girl is beaten to death in the course of “disciplining” her for being disobedient to the commands of a stepfather<sup>30</sup>; or a gay university student is brutalized by several young men and left to die tied to fence<sup>31</sup>; or a fifteen-year-old boy has suffered daily bullying since elementary school, his tormenters encouraging others to join in this form of torture by Internet posting denigrating his masculinity.<sup>32</sup> In all of these and the many cases not reported in the media,

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ARSHIP: KINDLING THE GROVES OF ACADEME 89 (1987) (noting that a group of Detroit radical feminists argued that “women were the first and most extensive colonial group,” in their work “Fourth World Manifesto,” the most extensive study of the position of women inside the colonialism framework).

<sup>26</sup> See Susan Brownmiller, *Against Our Will: Men, Women, and Rape*, in FEMINISM IN OUR TIME: THE ESSENTIAL WRITINGS, WORLD WAR II TO THE PRESENT 278 (Miriam Schneir, ed., 1994) (quoting Marvin Wolfgang, a leading criminologist’s statement that physical aggression is a “demonstration of masculinity and toughness,” and arguing that this is the “prime tenet of the subculture of violence”); Bob Herbert, Op-Ed., *A Volatile Young Man, Humiliation, and a Gun*, N.Y. TIMES, Apr. 19, 2007, at A1.

<sup>27</sup> See CHRISTOPHER MASON, CROSSING INTO MANHOOD: A MEN’S STUDIES CURRICULUM 177 (2006).

<sup>28</sup> See generally Rachel Alsop, Annette Fitzsimons & Kathleen Lennon, *Feminism and Existentialism*, in THEORIZING GENDER (2002).

<sup>29</sup> See generally Lucy Komisar, *Violence and the Masculine Mystique*, in THE FORTY-NINE PERCENT MAJORITY 201 (Deborah S. David & Robert Brannon eds., 1976).

<sup>30</sup> See Jose Martinez, *Grim Echo of Past: Brutality Recalls Cruel ‘95 Killing of 6-Year-Old Girl*, N.Y. DAILY NEWS, Jan. 12, 2006, at 7 (reporting on the fatal beating of Nixzmary Brown by her stepfather because he thought she needed to be disciplined).

<sup>31</sup> See James Brooke, *Gay Man Beaten and Left for Dead*, N.Y. TIMES, Oct. 10, 1998, at A1 (reporting on the arraignment of two men for their brutal beating of Matthew Shepard, a 22-year-old University of Wyoming student, whom on October 7, 1998 they kidnapped, severely beaten, tied to a fence and left to die). Court papers filed indicated that Mr. Shepard’s homosexuality may have been a factor, and the men were overheard making anti-gay remarks. *Id.* Mr. Shepard died on October 12, 1998.

<sup>32</sup> See Jason Wermers, *Cape Mom Fights for Anti-Bullying Bill: Son’s Suicide Sparks Legislation Campaign*, THE NEWS-PRESS (Fort Myers, Fla.), Jan. 25, 2006, at 1A.



we can discern cycles of cruelty and an escalation of harm where unchecked incidents of intimidation or harassment progress to avoidable and severe physical and mental harm.

I think it not just coincidence that in each of these and many similar tragedies, the perpetrators describe their actions as punishment for deviance and disobedience.<sup>33</sup> In a society where white privilege still prevails, it is not only a consequence of poverty or malevolent intent that the majority in prison are young black men.<sup>34</sup> We are a society that puts great stock in punishment to keep the world in order, and in spite of our much denounced decadence, we remain preoccupied by evil, easily convinced that we are under threat by evil forces, empires or militant faiths and strange cultures. Our society's most frequent means to prevent evil deeds is to punish evil doers or preemptively discipline, deter potential evil doers—the rationalization of the punishment of children—or isolate them, accounting for the highest percentage of the population in prison than virtually all other nations.<sup>35</sup> The continued and frequent use of the term evil,<sup>36</sup> especially in regard to those victimized by ill treatment in custody, may well have helped the torturers to rationalize their behavior.

It should be noted, too, that gendered violence in all its forms serves to keep the vulnerable in their places in the gender order, and also often serves to prove the perpetrator's masculinity—i.e. their worthiness—to witnesses, especially to those at the same or higher level of the gender order. This is known to be the case in instances of group bullying and gang rape,<sup>37</sup> and I would expect it also operates in situation of torture such as Abu Ghraib, where even—and maybe especially—women may have felt the need to prove their toughness to curry favor with those above them. It would seem to have been so with Lynndie England and Sabrina Harman whose photographs documenting the abuses there were

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<sup>33</sup> See Martinez, *supra* note 30; Brooke, *supra* note 31; Wermers, *supra* note 32.

<sup>34</sup> Olatunde C.A. Johnson, *Legislating Racial Fairness in Criminal Justice*, 39 COLUM. HUM. RTS. L. REV. 233, 254–261 (2007) (discussing theories behind racial disparities in sentencing in the criminal justice system).

<sup>35</sup> Saby Ghoshray, *America the Prison Nation: Melding Humanistic Jurisprudence with a Value-Centric Incarceration Model*, 34 NEW ENG. J. ON CRIM & CIV. CONFINEMENT 313, 313–320 (2008) (describing the relationship between a punitive approach in criminal justice and the rapidly increasing percentage of the population incarcerated in the United States).

<sup>36</sup> See Anne-Marie Slaughter, *Beware the Trumpets of War: A Response to Kenneth Anderson*, 25 HARV. J.L. & PUB. POL'Y 965, 973 (2002).

<sup>37</sup> See Mary Becker, *Patriarchy and Inequality: Towards a Substantive Feminism*, 1999 U. CHI. LEGAL F. 21, 27–28 (1999).

used in England's court martial conviction.<sup>38</sup> While they may have gained their places among "the grunts," they also compounded their vulnerability, becoming as the vulnerable do, the expendable—offered up as a shield for "the higher ups."<sup>39</sup>

Certainly, many women have not felt welcome or equal in the military. The fact of gender-based violence by male American soldiers against female American soldiers recently reported in the *Los Angeles Times*<sup>40</sup> and the testimonies of the Winter Soldiers about their Iraq experiences has long been known to those who follow the issue of military gender violence.<sup>41</sup> Like domestic violence as described by Rhonda Copelon, sexual assault, rape and threat of rape as occurs in the U.S. military (and probably other militaries) bears the hallmarks of torture. Victims spoke of their continued terror, feelings of helplessness and the downward spirals many of their lives have since taken.<sup>42</sup>

Another hallmark of torture and similarity between domestic violence in military gender-based violence is the impunity enjoyed by perpetrators. Sexual abuse in the military is also treated as private, that it is not of much concern except to the victim, and little or no penalties are exacted from the perpetrators.<sup>43</sup> The situation is similar to that in Massachusetts where an increase in domestic violence was under-prosecuted due to plea bargains.<sup>44</sup> Civilian tolerance of higher levels of domestic violence underlines the fundamental misogyny that permeates the culture of violence so that such crimes are not accorded the same concern as other homicides. They are another "unfortunate inevitability." The inevitability is a consequence of the manner in which so many daily cruelties are tolerated in this society. They are as systemic as the gender violence in the military reported in the Winter Soldier testimo-

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<sup>38</sup> Philip Gourevitch & Errol Morris, *Exposure: The Woman Behind the Camera at Abu Ghraib*, THE NEW YORKER, Mar. 24, 2008, available at [http://www.newyorker.com/reporting/2008/03/24/080324fa\\_fact\\_gourevitch](http://www.newyorker.com/reporting/2008/03/24/080324fa_fact_gourevitch).

<sup>39</sup> *Id.*

<sup>40</sup> Jane Harman, *Rapists in the Ranks: Sexual Assaults are Frequent, and Frequently Ignored, in the Armed Services*, L.A. TIMES, Mar. 31, 2008, at A15

<sup>41</sup> Maya Schenwar, *Gender in the Ranks*, TRUTHOUT, Apr. 9, 2008, available at <http://www.truthout.org/article/winter-soldier-2008-gender-ranks>.

<sup>42</sup> Harman, *supra* note 40.

<sup>43</sup> See Michael I. Spak & Alice M. McCart, *Effect of Military Culture on Responding to Sexual Harassment: The Warrior Mystique*, 93 NEB. L. REV. 79, 80–88 (2004); Dana Michael Hollywood, *Creating a True Army of One: Four Proposals to Combat Sexual Harassment in Today's Army*, 30 HARV. J. L. & GENDER 151, 152, 183 (2007).

<sup>44</sup> See Maria Cramer, *Fewer Batterers Put Into Programs: Victim's Advocates Fault Plea Bargains*, BOSTON GLOBE, Apr. 8, 2008, at A1.

nies.<sup>45</sup> “Sexism and sexual violence are not simply due to isolated ‘bad soldiers’ or to evil forces in the DoD, testifiers reiterated throughout the panel. Gender divisions and hierarchies are built into the very structure of the military, already one of society’s blatantly hierarchal [read patriarchal] institutions.”<sup>46</sup> When viewed from the perspective of its similarities to domestic violence and on the continuum of violence, military gender violence, I would argue as I do with torture, is not aberrant. It is, as the testimony indicates, built into the social system.

For feminist scholars who have looked into the links between gender and war, these conditions offer insight not just into causality, but also into response to these abuses. It leads us to argue that essentially all forms of oppression, exploitation, deprivation—every form of ill treatment—should be subject to gender analysis if the problem is to be fully diagnosed, a deeper examination even than that provided by the disaggregated data called for by the Comment.<sup>47</sup> It also leads us to call for more attentiveness to the ways in which the entire culture is fertile soil for producing torturers. Some put emphasis on education toward alternatives, to what has been called “hegemonic masculinity” that is believed to influence male violence of many kinds.<sup>48</sup>

#### IV. PRIMED FOR CRUELTY BY PRIME TIME

Over many years, violence in media and leisure activities has been decried for socializing the young into notions of violence as adventure, challenges of bravery, tests of worthiness. One’s willingness to engage in it demonstrates patriotism, manliness and other unimpeachable patriarchal values, such as those embodied in TV hero Agent Jack Bauer,<sup>49</sup> who tortured regularly on prime-time to save our nation. While public outcry inspired the producers of that program, *24*<sup>50</sup> to mitigate his methods, neither the character nor the producers denounced the practice. More recently, but less discussed than media violence, is another phenomenon that I find relevant to the cultural roots of cruelty. In the years during which United States policy and practice has rationalized torture and the American public has condoned its use, the media has added an-

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<sup>45</sup> Schenwar, *supra* note 41.

<sup>46</sup> *Id.*

<sup>47</sup> *General Comment No. 2, supra* note 6, ¶ 23.

<sup>48</sup> R.W. Connell & James W. Messerschmidt, *Hegemonic Masculinity: Rethinking the Concept*, 19-6 GENDER & SOC’Y 829, 829–30 (2005).

<sup>49</sup> *24* (FOX).

<sup>50</sup> *Id.*

other characteristic of torture to the menu of popular culture, humiliation.

We are now assailed with public humiliation as entertainment and news. “You’re fired”<sup>51</sup> has become widely recognized slang for “You are not among the worthy.” The wife must stand in shame beside a miscreant husband in his public accounting of or apologies for his misdeeds.<sup>52</sup> Denigrating the human dignity of others now makes for successful television programs and virtually daily tabloid news coverage. Such news and entertainment serve to legitimate degradation and humiliation as a means to an end, or worse as the just deserts of those who get caught—the shame being in getting caught as much as the deed. The less talented, the “abnormal” such as those whose weight exceeds the accepted norm, or those otherwise economically vulnerable are invited to prostitute themselves for short-term material reward on a variety of TV programs. I am not in the least surprised by the accounts that some of the abuses at Abu Ghraib were said to have been inflicted out of boredom or some perverted sense of humor, and photographed like a fraternity drinking party—just pranks such as they were likened to by the Secretary of Defense,<sup>53</sup> considering that families at home were tuned into *The Biggest Loser*<sup>54</sup> and the like.

In light of this steady acculturation to violence and violation of human dignity, even systematic instruction of all military recruits in the Geneva Conventions and Nuremberg Principles<sup>55</sup> is not adequate for the prevention of torture. In some cases, it may well come too late to overcome this socialization into a culture of violence. While such knowledge is essential, without a strong value base to buttress a fully internalized understanding of the principle “that no exceptional circumstances whatsoever . . . justify acts of torture . . .”<sup>56</sup>; without the capacity to discern incipient as well as actual ill treatment; and, most especially, without the critical capac-

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<sup>51</sup> *The Apprentice* (NBC).

<sup>52</sup> David Kocieniewski & Danny Hakim, *Spitzer Resigns in Sex Scandal and Turns His Attention to Healing His Family*, N.Y. TIMES, Mar. 12, 2008 at A1.

<sup>53</sup> See Eileen L. Zurbrigen, *Sexualized Torture and Abuse at Abu Ghraib Prison: Feminist Psychological Analyses*, 18 FEMINISM & PSYCHOLOGY 301 (2008).

<sup>54</sup> *The Biggest Loser* (NBC).

<sup>55</sup> Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; Nuremberg Principles, U.N. GAOR, 5th Session, Supp. No. 12, U.N. Doc. A/1316 (1950), reprinted in *Report of the International Law Commission Covering Its Second Session, June 5–July 29, 1950*, 44 AM. J. INT’L L. SUP. 105, 126–34 (1950); see also TONY LAGOURANIS & ALLEN MIKAELIAN, FEAR UP HARSH: AN ARMY INTERROGATOR’S DARK JOURNEY THROUGH IRAQ 30–31 (2007).

<sup>56</sup> General Comment no. 2, *supra* note 6, ¶ 5.

ity to make fundamental ethical choices, the conditions in which the choices are to be made may well prevail over knowledge of unenforced legal prohibitions. These capacities would be essential even if the conventions had not been deemed “quaint”<sup>57</sup> and not applicable by the nation’s highest authorities. The eradication of torture requires a movement for cultural change centered in an intentional and focused campaign for public education of the young in our schools and of the adults who elect the policy-makers who authorize that torture be planned, developed and disseminated.

V. EDUCATION ESSENTIAL TO THE PREVENTION AND ELIMINATION OF TORTURE: HUMAN RIGHTS LEARNING

What I seek to argue here is the need for a general education in global civic literacy, basic ethics of human relationships, critical thinking and social and civic responsibility. Indicators of the fundamental principles and purposes of such an education can be found in General Comment 2 and in the Convention itself. The assertion in Paragraph 25 of the General Comment that “it is important that the general population be educated in the history, scope, and necessity of the non-derogable prohibition of torture and ill-treatment. . . .”<sup>58</sup> is a call to what I would urge those here to advocate and pursue. I would, however, not limit to “law enforcement and other personnel” education on recognition and prevention.<sup>59</sup> It is toward these purposes that I strongly recommend an education for critical consciousness, personal responsibility and moral reflection of the kind that is advocated and practiced by peace and human rights educators. In short, I advocate a multisectoral campaign of human rights learning for the eradication of torture. Such learning comprises knowledge and comprehension of concepts and standards of human rights and the internalization of the principles and values from which they are derived.

The absolute prohibition against torture is grounded in the principle of the inviolability of universal human dignity that is rooted not only in religious and philosophic beliefs, but is integral

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<sup>57</sup> See Memorandum from Alberto R. Gonzales, Counsel to the President, to George W. Bush, President of the United States, Decision Re: Application of the Geneva Conventions on Prisoners of War to the Conflict with Al-Qaeda and the Taliban (Jan. 25, 2002), *reprinted in* THE TORTURE PAPERS: THE ROAD TO ABU GHRAIB 119 (Karen J. Greenberg & Joshua L. Dratel eds., 2005).

<sup>58</sup> General Comment no. 2, *supra* note 6, ¶ 5.

<sup>59</sup> See *id.*

to the whole body of international human rights standards.<sup>60</sup> Service personnel should not have their first encounter with the Geneva Convention in military training. They should come to that training with a citizenship education that provides them with general knowledge of the need for and functions of international law, human rights, the standards established to protect them, and the historic circumstances which produced them. They should have been taught that the “special gravity of torture”<sup>61</sup> is not only an egregious violation of these standards, but a break with the positive historic traditions that have been moving human society toward higher standards of civic culture. It is, I believe, significant that both the value of universal human dignity and the international legal norms developed over the last century—indeed the principle of democracy which made the emergence of the norms possible, runs counter to the norms and structures of the global gender order. It is not by chance that those who perceive their self-interest in the continuation of the order are those who have attempted to overturn these developments by attempts to derogate human rights norms. The education of the military, indeed, of all citizens, should be intentionally directed at, as stated by the Comment, “building a culture of respect” for the human person, for international standards and for the historic traditions of what Elise Boulding has termed an emerging “global civic culture” the most hopeful alternative to the global gender order.<sup>62</sup>

Respect for individual rights complemented by practice of individual responsibility should be integrated into the processes through which not only the young who may serve in the military are educated, but into all public education. The historic context of the defining of the Nuremberg Principles should be taught as a case through which to illuminate how critical judgment must complement ethical standards in determining behavior under socially stressful and politically challenging conditions, so that they might better understand that “the States obligation to prevent torture also applies to all person who act. . .at the behest of the State

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<sup>60</sup> Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, preamble, Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85, 23 I.L.M. 1027 (1984) [hereinafter Convention], available at <http://www2.ohchr.org/english/law/pdf/cat.pdf>; see also Matthew Lippman, *The Protection of Universal Human Rights: The Problem of Torture*, UNIVERSAL HUM. RTS., Oct.–Dec. 1979, at 25–28.

<sup>61</sup> *General Comment No. 2*, *supra* note 6, ¶ 11.

<sup>62</sup> See generally ELISE BOULDING, *BUILDING A GLOBAL CIVIC CULTURE: EDUCATION FOR AN INTERDEPENDENT WORLD* (Syracuse U. Press 1990) (1988).

Party.”<sup>63</sup> They must be fully aware that “the legal responsibility [falls upon] the direct perpetrator, officials in the line of command whether by acts of instigation, consent or acquiescence.”<sup>64</sup> Clearly, dealing with these realms of responsibility calls for far greater critical capacity than that with which we have equipped the young military members whom we consign to the situations in which they become perpetrators. This lack of capacity for critical reflection is tragically evident in the statements of Sabrina Harman quoted in a recent *New Yorker* article.<sup>65</sup> Nor do I assume that Military Intelligence or private contractor personnel have experienced any more effective of a process of critical capacity building.

I am not, however, suggesting that critical reflection is required only by those who may find themselves in “conditions that give rise to ill-treatment.”<sup>66</sup> It has become urgently required of all citizens—those who consent or acquiesce to their being sent into those conditions. The elimination of torture lies as much or more with the critical capacity and social responsibility of the general citizenry than with the perpetrators. Had American citizens been so educated that they actually adhered to the principle that “no exceptional circumstances whatsoever may be invoked by a State Party to justify acts of torture . . .”<sup>67</sup> and had an authentic sense of civic responsibility to act against it, the situations in Iraq and GUANTANAMO would have been stopped with the first revelations. That moral scandal would have been viscerally, ethically and pragmatically abhorrent to the point of massive outcry and action. But we were a nation unable to grapple with legal and moral principles, “when required [we did not] challenge state action. . . that violates the Convention.”<sup>68</sup> American education needs to be directed toward developing capacities to commit to ethical principles and to act to realize them.

In this regard the Nuremberg principle of individual responsibility and the Comment’s complement to it on the protection of whistleblowers<sup>69</sup> are absolutely essential content of the required education. They have special relevance to the transformative task of the eradication of torture and the associated, imperative task of cultural change. I see these as instruments of liberation to the free

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<sup>63</sup> *General Comment No. 2, supra* note 6, ¶ 7.

<sup>64</sup> *Id.*

<sup>65</sup> Gourevitch & Morris, *supra* note 38.

<sup>66</sup> *General Comment No. 2, supra* note 6, ¶ 3.

<sup>67</sup> *Id.* ¶ 5.

<sup>68</sup> *Id.* ¶ 11.

<sup>69</sup> *Id.* ¶ 6.

social consciences of those to whom torture and all the forms of cruelty that comprise this culture of violence are abhorrent. It is in this context of liberation and potential transformation that I would teach these principles. I would place them in a wider program of human rights learning that would lead to an understanding that the transformation to be sought lies in the renunciation of violence and the construction of a social order based on universal, nonderogable human rights.

#### VI. CONCLUSION: CONNECTING THE DOTS, EXPOSING THE SYSTEM

Finally, the education imperative which underlies all others is that of developing an understanding of the interrelationships among all forms of violence and the essential gendered nature of the patriarchal structures and relationships which comprise the culture of violence that characterizes this society and by virtue of our world power position affects the larger global system. American citizens need to be able to connect the dots, to see clearly the system of violence that produces torture and the network of responsibility for its continuation. So, too, they should be able to see through the “few rotten apples” argument, knowing that the rot runs through the whole barrel of this culture of violence. If torture is to be eradicated, we need not only to scrub out the barrel, but to reconstruct it. This, the International Year of Human Rights Learning,<sup>70</sup> is a most appropriate time to undertake a major program to educate ourselves about why and how to achieve that reconstruction and to commit ourselves to a systematic and sustained effort to completely and finally eradicate torture.

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<sup>70</sup> The U.N. General Assembly declared the year commencing on December 10, 2008 to be the “International Year of Human Rights Learning.” G.A. Res. 62/171, ¶ 1, U.N. Doc. A/RES/62/17 (Dec. 18, 2007).



