

TORTURE: A REFLECTION*

José Piñera

1. Torture is an abominable act. There is absolutely no justification for behaving in such a cruel and cowardly manner against the sacred dignity of human beings. Each torturer violates not only the body, the soul and the mind of his fellow man but also the law and the ethical codes of Western civilization.

2. It is obvious that there are causal relationships between historical events. It is a proven fact that the adoption of the idea of an armed struggle for power by the Chilean Left led to the violation of the Constitution by Allende's government, to a state of civil war, to the breakdown of democracy, to the military government and to the repressive violence of the state, including torture. Nevertheless it can be legitimately maintained that if the Chilean Left and other Leftist parties on the continent had not depreciated the Democratic system, there would have been no political torture in Chile. This is nothing but logical reasoning. History will not be indulgent with those who let the Chilean and Latin American drama unfold.

3. Another very different thing is to try and minimize the moral condemnation of torture, as some have tried to do, because it happened "within a determined context, that is to say "the Cold War", the battle against terrorism or even civil war. It is true that as far as historical teaching is concerned, it can be confirmed that every time violent "contexts" and terrorism have occurred there has been torture. The British Government versus the IRA, the Spanish Government versus ETA, the French Government versus the Algerian resistance, the US Government versus Islamic terrorists etcetera, etcetera. But these contexts are not wholly determinant, i.e. they do not inevitably lead to torture. Between the context and the individual act, there is a person with free will and a conscience, who can either refuse to torture or order it, who can either resist pressure from a group inflamed or blinded by hatred and even personal vengeance or cannot, who can avoid degrading both himself or his victim, a victim who, however much he or she

JOSÉ PIÑERA. Ph.D. in Economics, Harvard University. Ex- Minister of Work and Social Security and Minister of Mining. Author, among other books and publications, of *El Cascabel al Gato*, *La Batalla por la Reforma*, *La Revolución Laboral en Chile*, *Una Casa Dividida*.

* Publisher on www.josepinera.com/pag/pag_tex_tortura_reflexion.lit

might be guilty, is at that moment defenceless and entitled to be treated according to the law.

4. This unequivocal condemnation of torture has to be based on immovable and universal principles. It is a praiseworthy advance that the Chilean Army is informing our citizens that it has undertaken to educate its members regarding human rights, hoping that “never again”, if similar dramas unfold in the future, will it fall into committing the same illegal acts. The military authorities have also indicated that torture has never been part of the Army’s “doctrine”, but an act of responsibility by those who exercised it, even in those cases where institutional resources were involved. Nevertheless they have also recognized that some units were trained in torture methods in the eventuality of their being captured by enemy troops. Although the government has remained silent in the face of this disclosure, my position is that not only can we not torture any Chilean, not even those who declare war against democracy but also —and I am going further here— we cannot torture any Argentine, Peruvian or Bolivian either, not even in the case of an eventual war with our neighbours. When all the Chileans also accept this moral code of conduct, we will have definitively eradicated all support for methods such as these. It is not possible to compartmentalise. If we justify torture in some cases or on some human beings, the defence of life and the physical integrity of everyone become fragile and weak.

5. It is with sadness and a sense of disillusionment that I can demonstrate that, regarding this theme, the government of Ricardo Lagos has chosen a path —the one of the official commissioners— which acts against the due process of law and justice. Whatever its intentions were, and I am not judging them, I consider that it is a mistaken formula for the following reasons, among others: a) a commission (called the Valech Commission by the press) has been discreetly nominated by part of the present government, a commission that by virtue of being nominated therefore lacks the necessary level of independence. b) the staff that has undertaken a great part of the work has shown, in declarations and interviews, a clear ideological bias c) they have employed methods that have no probative value, as has been pointed out by among others Gonzalo Vial, a prestigious historian who was nominated as a member to the two previous commissions on human rights, and has been recognised by the Minister of the Interior himself in the face of the avalanche of demands the State has received d) they have introduced monetary compensation for all who declare themselves to be a

victim, a fact that is aggravated by the inexistence of a judicial process that backs up their claim e) key aspects of the commission's work have been kept secret, including the identities of both victims and the persons responsible for their suffering, which prevents any possibility of a critical revision. f) the fact that the report had scarcely been published coupled with the use of a significant number of the media in the hands of the State or its allies has allowed the highest authorities of the Government and the political parties that back it to immediately begin a communications offensive against people and key institutions, including the press and the judiciary, weakening any possible counterweight which is essential: the Government newspaper La Nacion, for example, attacked the maximum leaders of the opposition on its cover, as well as other personalities (including Jaime Guzman, assassinated by the extreme Left in 1991) and g) by using and abusing the Government's television channel (TVN) an almost hysterical climate has been created among public opinion, in which to deny the validity of the official report is tantamount to something morally shameful, thereby restricting the necessary freedom of expression of all citizens.

6. In conclusion, the report of the "Valech Commission" lacks legitimacy and accuracy and has become an instrument of Government propaganda. The country has wasted the opportunity of sharing a vision about the real extent and nature of torture. It can be seen, just by reading the daily press, that there is obvious use of a terrible human tragedy for political objectives, thus provoking a climate of division and hatred on the eve of a key Presidential election, instead of the proclaimed goal of truth and reconciliation. All of this however does not prevent me affirming, as I have done before, and re-affirming, as I am doing here, that the crime of torture was practiced in Chile by some agents of the State and that it should be condemned in the most absolute manner so as to reduce the possibility of it being repeated in the future.

7. So as to lessen the pain of the victims, restore the good name of those falsely accused and search for historical truth, it seems to me that there exist two complementary paths, which, in spite of everything, have to be explored. The first is a civic debate with aims and intentions, respectful of the motivations of everyone and rigorous in its logic and premises. In this way we can try and get to the bottom of the deeper causes that permit torture, its human social and political consequences and propose public policies to ensure that this will never happen again. The second is the road to truth, sanctioned in the only manner possible in a civilised society: by

the courts through the due process of law. The time already passed signifies a problem, since the vast majority of these acts occurred in 1973, in the first months after the breakdown of democracy, but not an impossibility.

I can understand the amazement and the indignation of the victims confronting the apparent official reality of “torture without the torturers”. If there are well-founded cases, the correct way forward is through the courts of justice. I ask myself if the public money destined to finance life pensions for the self-declared victims would not be better used in subsidising this judicial process (both for accusers and accused since the presumption of initial innocence applies to everyone) and in improving the procedural rules so that, once and for all, justice can be done. Once the judicial cases have been closed, society could exercise some reasonable degree of clemency through the democratic process as has been done on previous occasions.

8. Finally, this is my truth. I should like to clarify that I am expressing it with humility, since these themes are extraordinarily complex, sensitive and delicate. And I am offering it in the knowledge that it is imperfect and subject to clarifications and improvements. But I have the intuition that these go along the route of civic friendship, law and charity.

December 10th 2004

Postscript 1. Today, the 3rd of April 2005, the following report from the journalist Pablo Carrasco appeared in the El Mercurio newspaper and tends to confirm the fears expressed above about the lack of accuracy in the Valech Report.

“ANTOFAGASTA. Hernan Vargas, the regional director of Onemi, a city councillor and President of the Socialist party for the 2nd Region, figures in the Valech Report as one of those imprisoned and tortured under the number 25,417. Because of this he will receive \$12,817 pesos per month in accordance with Law 19,992. However, the group that represents those who were tortured and who disappeared during the military regime denied that he was the victim of torture. In spite of the fact that the report indicates that everyone who figures in it as victims of torture were interviewed personally, Vargas points out that he knows nobody on the commission and that he personally didn’t present the information but that his mother did, in conversations with the president of the Socialist Party in the community Maria

Ines Cajiao. Hernan Vargas also said that he had no intention of removing his name from the register. As a student leader Vargas remembers that during some protests he was “beaten and humiliated” while being detained inside police vehicles. Officially three detentions are registered, none of which lasted longer than 12 hours. Doris Navarro (Communist Party) who is president of the group representing those who were executed and who disappeared from Antofagasta, recalls that she registered the people who were imprisoned and that Vargas never figured on the list. She confirms that she saw him when he was detained but that he was set free after only a few hours. In a letter sent to the Regional Intendent, Jorge Molina, Navarro asked him to intervene and remove Vargas from the report. She also says that it is a lie that his registration was done by his mother because nobody can testify on behalf of someone else. Gerardo Claps was the person in charge of visiting political prisoners in his role as a member of the Human Rights Commission for the 2nd Region and agrees that he never saw Vargas at any of the detention centres”.

Postscript 2. Today, the 1st of February 2005, an interview with Jose Benquis, Minister of the Supreme Court, appears in the La Tercera newspaper, in which he expresses the following: “ Frankly I am very disappointed with the result produced by the Valech Commission, whose report is like a work of literature, similar to those written by Stephen King”. □