PART I: Behavioral Science Perspectives

1. A Theory- and Evidence-Based Approach to the Definition of Torture 3
   Metin Başoğlu
   Introduction 3
   A Learning Theory Model of Trauma 5
   Mental Pain or Suffering: Definitional and Methodological Issues in
   Assessment 11
   Mental Pain or Suffering: Definitional Issues 11
   Contextual Determinants of Mental Pain or Suffering 13
   Assessment and Measurement of Mental Pain or Suffering 14
Captivity Stressors Associated With Severe Mental Pain or Suffering 19
A Learning Theory Formulation of Torture 29
A Cumulative Versus Individual-Method-Based Approach to Torture 35
Distinction Between Torture and Cruel, Inhuman, or Degrading Treatments in International Law 39
Torture by Nonstate Actors 42
Torture and Gender-Based Violence 42
Implications for Emerging Trends in Interpretation of Torture 43
Conclusion 43
References 44

2. Control as a Defining Characteristic of Torture: A Learning Theory Analysis of the Kubark Interrogation Manual 49
Hernán Reyes And Metin Başoğlu
Introduction 49
Defining Control: Captor’s Perspective 50
Noncoercive Interrogation 52
Coercive Interrogation 53
Conclusion 57
References 59

3. A Battle for Control: Resisting Torture and Cruel, Inhuman, or Degrading Treatment at Guantánamo 61
K. Alexa Koenig
Introduction 61
Methods 62
A Learning Theory of Torture 64
A Learning Theory Analysis of Captivity Experiences in Guantánamo 65
Sensory Deprivation 66
Sexualized Violence 68
Linguistic and Cultural Isolation 75
Indefinite Detention 76
Resistance to Institutional Control 78
Implications for the Definition of Torture 85
Conclusion 88
References 88
4. An Evolutionary Approach to Humiliation and Shame Induced by Inhuman and Degrading Treatment 91
Kaj Björkqvist
   Introduction 91
   The Concepts of Humiliation and Shame 92
   Nonverbal Signals of Shame 93
   The Evolution of Shame 94
   Social Pain 96
   Further Evidence for the Social Pain Hypothesis 98
   Social Defeat as a Stressor 100
   Conclusion 101
   References 102

Ebru Şalcioğlu And Metin Başoğlu
   Introduction 107
   Definition of Gender-Based Violence 110
   Prevalence of Domestic Violence 111
   Physical and Mental Health and Effects of Domestic Violence in Women 113
   A Comparative Study of Domestic Violence and Torture 114
   Samples 114
   Assessment Measures 115
   Findings 116
      Nature and Severity of Trauma 117
      Fear and Helplessness Effects 121
      Posttraumatic Stress Disorder and Depression 121
      Mechanisms of Traumatic Stress 123
   Discussion 127
   References 135

6. Contexts of Ill-Treatment: The Relationship of Captivity and Prison Confinement to Cruel, Inhuman, or Degrading Treatment and Torture 139
Craig Haney and Shirin Bakhshay
   Introduction 139
   The Psychological Dimensions of Cruel, Inhuman, or Degrading Treatment and Torture 142
   Conditions of Confinement and the Facilitation of Ill-Treatment 146

Contents [ix]
### The Nature and Effects of Adverse Captivity

- The Painful and Traumatic Nature of Prison Life 152
- The Psychic Cost of "Coping" in Confinement 155
- New Research on Prison Effects and the New Prison Form 158
- Exacerbating the Effects of Cruel, Inhuman, or Degrading Treatment and Torture in a Context of Captivity 164
- Conditions of Confinement as Cruel, Inhuman, or Degrading Treatment and Torture 167
- Conclusion 172
- References 172

### 7. The Meaning of Psychological Trauma 179

*Richard J. McNally*

- Introduction 179
- The Emergence of Posttraumatic Stress Disorder 180
- Symptoms of Posttraumatic Stress Disorder 181
- The Evolving Concept of Trauma in the DSM 182
  - Psychological Trauma in DSM-III 183
  - Psychological Trauma in DSM-III-R 183
  - Psychological Trauma in DSM-IV 184
  - Psychological Trauma in DSM-5 188
- Psychological Trauma: Further Complexities 190
  - Psychological Versus Physical Trauma 190
  - The Dose-Response Model of Trauma 191
  - Guilt, Shame, and Trauma 196
  - Trauma in Historical Context 201
- Implications for Cruel, Inhuman, or Degrading Treatment 203
- Conclusion 205
- References 205

### PART II: International Law Perspectives

### 8. Evolving Standards for Torture in International Law 215

*Juan E. Méndez And Andra Nicolescu*

- Introduction 215
- The Absolute Prohibition of Torture and Other Ill-Treatment in International Law 216
- The Definition of Torture and Other Cruel, Inhuman, or Degrading Treatment in International Law 218
10. Making Human Rights Sense of the Torture Definition 273
   Yuval Ginbar

   Introduction 273
   Part I: What Is Right With the Torture Definition? 276
      It Reflects the Moral Abhorrence of Torture 277
      It Defines Both a Human Rights Violation and a Crime 279
      It Defines Torture Neatly and Fairly, Avoiding Both Trivial and
      Onerous Burdens of Proof 279
      It Is Flexible Enough to Facilitate Progressive
      Interpretations 281
      Torture by nonstate actors 281
      Gender-based torture 282
      Torture in health care settings 283
      It Maintains a Practically Indispensable, Morally Defensible,
      "Lawful Sanctions" Exception 284
      Tackling the causes of crime 285
      Clarity and legality 285
      Minimization of use 286
      Humane treatment and social rehabilitation 286
      It Makes Virtually No Empirical Assertions and Does Not
      Encroach on Science 288
   Part II: Distinguishing Torture From Cruel, Inhuman, or Degrading
      Treatment or Punishment 289
      The "Torture Minus" Approach 292
      Why Not "Purpose Only"? 294
Why Not "Severity Only"? 296
Crossing the "Severity" Line—Cumulative Effects, Instant Impact Acts 297
Part III: The Lived Realities of Torture 301
  The Quantitative Aspect 302
  The Demography 303
  The Methods 304
Conclusion 306
References and Bibliography 308

11. The Gendered Dimensions of Torture: Rape and Other Forms of Gender-Based Violence as Torture Under International Law 315
Lisa Davis
  Introduction 315
  Recognizing Gender-Based Violence as Human Rights Violations 321
    Dismantling the Public/Private Wall 321
    The Vienna Conference: Recognizing Women’s Rights as Human Rights 324
  Building Legal Recognition of Rape as a Form of Torture 327
  Confronting Institutional Gender Discrimination 329
  The Making of the International Criminal Court 336
    Articles of the Rome Statute 339
    Substituting the Word “Gender” for “Sex” 340
  Challenges to Bringing Rape as Torture Charges Under International Criminal Law 342
    The Akayesu Case 344
    Beyond Akayesu 346
    The Bemba Case 348
  Confronting Violence and Discrimination During Times of Peace: When States Are Responsible for Gendered Torture Committed by Private Actors 351
  Defining Torture 351
  Intent 354
  Severe Physical or Mental Pain or Suffering 355
  Discrimination Purposes 355
  Acquiescence 356
  Gender-Based Violence, Discrimination, and Due Diligence 357
  The Disproportionate Effect of Gender-Based Violence 359

Contents [xiii]
PART III: "Enhanced Interrogation Techniques":

Definitional Issues

   Eric Stover, K. Alexa Koenig, and Laurel E. Fletcher
   Introduction 376
   Torture and the "New Paradigm" for the "War on Terror" 378
   Torture by Any Other Name 382
   International Jurisprudence on Torture and Illegal Cruelty 386
   US Interpretations of International and Domestic Prohibitions on Torture and Illegal Cruelty 388
   The Physical and Psychological Sequelae of Torture and Other Forms of Illegal Cruelty 395
   Conclusion 400
   References 402

   Metin Başoğlu
   Introduction 409
   "Prolonged Mental Harm" 413
   Element of Specific Intent to Cause "Prolonged Mental Harm" 417
   Evidence of Specific Intent in "Enhanced Interrogation Techniques" 419
   Administration of Mind-Altering Substances or Other Procedures 426
   Conclusion 429
   References 430
Manfred Nowak  
| Introduction | 433 |
| "Enhanced Interrogation Techniques" Aimed at Causing "Learned Helplessness" in Detainees | 434 |
| "Powerlessness" as an Element of Defining Torture | 435 |
| Torture of Detainees at Guantánamo Bay | 437 |
| US and UN Standards on Torture | 438 |
| Torture in CIA Black Sites | 440 |
| Conclusion | 442 |

15. From Complicity to Impunity: Medical Participation and the Definition of Torture at the Central Intelligence Agency  
Leonard S. Rubenstein  
| Introduction | 445 |
| Background | 448 |
| Participation of Clinicians in Torture at the Black Sites | 451 |
| Medically Imposed "Limitations" on Enhanced Interrogation | 458 |
| Uncomfortably Cool Environments | 460 |
| Restricted Diet | 461 |
| Water Dousing | 461 |
| White Noise or Loud Music | 462 |
| Shackling and Prolonged Standing | 462 |
| Sleep Deprivation | 463 |
| Cramped Confinement in a Box | 463 |
| Waterboarding | 463 |
| Medical Authorization to Support Legal Arguments for Enhanced Interrogation | 465 |
| Shackling | 471 |
| Cold Water | 471 |
| Sleep Deprivation | 472 |
| Waterboarding | 472 |
| Combined Methods | 473 |
| Conclusion | 474 |
| References | 476 |
PART IV: Discussion and Conclusions

16. Discussion and Conclusions 481
  Metin Başoğlu
  Comments on Chapter 8 by Méndez and Nicolescu 482
  Comments on Chapter 6 by Haney and Bakhshay 486
  Comments on Chapter 10 by Yuval Ginbar 490
    "Common Sense" Approach to Torture 490
    Torture as an Act With Purpose, Intent, and a Severity Threshold 491
  Definition of Torture as a Theoretical Construct 491
  Too Wide a Definition of Torture 492
  Concepts of Powerlessness and Helplessness 492
  Morally Defensible “Lawful Sanctions” Exception 499
  Torture Definition and Empirical Assumptions 501
  Defining Cruel, Inhuman, or Degrading Treatment 502
  Crossing the “Severity” Line 502

Conclusion 504
References 505

Index 507