



The Prohibition of Torture: From Absolute Prohibition to Conditional Permissibility in Light of Normative Ethical Theories

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Abstract

Torture, as an inhuman act, involves inflicting severe physical and psychological pain and suffering on an individual by state agents for the purpose of obtaining vital information, imposing punishment, or securing a confession. Despite its absolute prohibition in international instruments, in special circumstances such as the "ticking time bomb hypothesis," justifications are presented for the use of torture in the interest of national security or the preservation of social order. The present article, using a descriptive-analytical approach, examines the view of normative ethical systems on the prohibition of torture in exceptional circumstances. The research findings show that for followers of virtue ethics and deontological ethics, there is no moral justification for torture, even in emergency situations. In contrast, proponents of utilitarian ethics believe that torture can be used exceptionally, as the benefits gained from it outweigh the victim's pain. However, this argument is criticized and leads to the conclusion that accepting torture is in no way logical. Torture is not only impermissible, but its justification can lead to serious abuses.

Keywords: *Torture; Absolute Prohibition; Conditional Prohibition; Virtue Ethics; Utilitarian Ethics; Deontological Ethics*

Introduction

The issue of torture has emerged as a serious ethical and human rights challenge in the contemporary world. Given its comprehensive nature and the social, political, and human complexities it

often entails, the prohibition of torture can be examined through the lens of normative ethical systems: virtue ethics, utilitarianism, and deontology. Torture is defined as the intentional infliction of severe pain or suffering upon an individual to obtain information, punish, or instill fear and submission. Although often justified by claims of national security or the preservation of social order, this act is universally recognized as a grave violation of human rights. The absolute prohibition of torture has been accepted as a peremptory norm (*jus cogens*) in international law and is emphasized in international instruments such as the Universal Declaration of Human Rights¹ and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1984. These documents stress the absolute² prohibition of torture and all forms of cruel treatment.³ Since this prohibition is recognized as a rule of customary international law, it is binding on all countries, whether they are signatories or not. However, the question remains whether torture can be philosophically and ethically justified in specific and exceptional circumstances, such as in states of emergency or when collective interests are at risk (e.g., in the "ticking time bomb" scenario).

Torture is generally defined as the intentional infliction of severe pain or suffering on a person by a state agent for purposes such as obtaining information, a confession, or punishment.⁴ The pain resulting from legal punishments is unquestionably excluded from this definition, as such pain or suffering is an inherent or necessary part of the punishment. Therefore, "torture" refers to any act that leads to severe physical or mental suffering inflicted on an individual by a state official without legal justification. Simply causing physical and psychological suffering is not sufficient; it must also involve threats and be continuous (Sadeghi, 2002: 122). The discussion of torture in this article is limited to a specific type of torture that is carried out solely for the purpose of obtaining a confession or admission during police interrogations and investigative processes. Thinkers in philosophy and ethics have termed this type of torture as being conducted under "exceptional circumstances" (the "ticking time bomb" hypothesis).⁵ The investigation of this topic is important for several reasons. First, as an anti-human activity, torture challenges ethical, human rights, and humanitarian responsibilities. Therefore, a deep and serious examination of this issue can lead to a better understanding of the dimensions of human rights and ethical values. Second, torture is often justified as a tool to achieve national security goals and maintain social order. These justifications require careful and critical scrutiny. Third, expanding theoretical discussions on normative ethics and its challenges in the face of social and political realities can contribute to the advancement of ethical and legal frameworks in national legal systems. Understanding the differences among the approaches of normative ethical systems in this area can lead to the development of more effective policies and laws to combat torture and strengthen human rights.

From the perspective of research background, three categories of sources can be identified: First, works that examine the prohibition of torture solely from the perspective of normative ethics, such as the article by Seyyed Hossein Alizadeh-Tabatabaei et al., titled "Absolute Prohibition of Torture in the Utilitarian Ethical System." Second, studies that examine torture from the perspective of Islamic

¹ . Article 5 of the Universal Declaration of Human Rights: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

² . Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

³ . Paragraph 2 of Article 2 of the Convention Against Torture states: "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

⁴ . Article 1, Convention Against Torture: "Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

⁵ . The ticking time bomb hypothesis is considered by thinkers in the philosophy of ethics as a last resort to examine the absolute or qualified prohibition of torture. This is a situation where a time bomb has been placed in a crowded city, and a suspect for placing the bomb has been arrested. Can law enforcement officials now torture the suspect to obtain useful information to defuse the time bomb to save hundreds of lives?

teachings, such as the article “Prohibition of Torture: From Absolute Prohibition to Qualified Permissibility” (Alizadeh-Tabatabaei et al.) and the work by Mohammad Hadi Sadeghi, titled “Prohibition of Torture in Islamic Law.” Third, books and dissertations that examine torture in light of international laws and documents. Accordingly, what distinguishes and highlights the present research from the existing literature is the integration of normative ethical approaches (such as utilitarianism, deontology, and virtue ethics) with Islamic teachings to explain the theoretical basis for the prohibition of torture. This interdisciplinary approach not only helps fill the gap in previous research by bringing together the philosophy of ethics and Islamic theology on the subject of torture but also paves the way for a new dialogue among different intellectual systems to strengthen the universal principle of the prohibition of torture. The findings of the existing literature indicate that the utilitarian ethical system, under certain exceptional circumstances, raises the possibility of justifying torture. In Islamic thought, some theories such as “Aham va Mohim” (prioritizing the more important) and “Dafe Afsad be Fased” (averting the greater evil with the lesser evil), or the benefit gained from the act of torture, have also been invoked in emergency situations.

This research is based on a descriptive-analytical approach and library resources. The structure of the article is arranged according to the historical and conceptual progression of ethical systems: First, the foundations and arguments for the prohibition of torture in Islamic law are analyzed; then, in subsequent sections, the three perspectives of virtue ethics, utilitarianism, and deontology are examined. Finally, the findings are presented. Given the close link between the science of ethics and law, and the fundamental role of ethical thought in the formation and analysis of legal norms, the examination of the issue of torture cannot be limited solely to the fields of law or criminology. From this perspective, the prohibition of torture is not only a legal issue but a deeply ethical one that has attracted the attention of civil institutions, lawyers, human rights activists, and the academic community. Therefore, re-examining the concept of torture from "absolute prohibition" to the possibility of "qualified permissibility" in light of ethical theories is an unavoidable necessity.

The findings of the research indicate that even in emergency situations or within the framework of the ticking time bomb hypothesis, resorting to torture is not ethically justifiable, because human dignity is considered an absolute and non-negotiable matter, regardless of the circumstances. As paragraph 2 of Article 2 of the Convention Against Torture also emphasizes, no exceptional circumstances, including a state of war, a threat to national security, or a public emergency, can provide a justification for the use of torture.

Foundations and Arguments for the Prohibition of Torture in Islamic Law

The radiant religion of Islam, as a system founded on human nature (fitra), has championed the protection of human rights and the promotion of high human values. Since its inception, Islamic teachings have emphasized the observance and preservation of fundamental human rights. The proximity of human beings to God and the belief in their inherent dignity and high value have granted human truths a prominent position within the Islamic system. Accordingly, respect for the innate rights and freedoms of individuals is considered a binding duty, and any behavior inconsistent with human dignity and status is condemned (Mohammadi, 2017: 75-76). Although there is no independent discussion on torture, the legal rulings that guarantee these rights explicitly prohibit any form of harassment, abuse, or suffering inflicted on others, and any demeaning behavior that violates human dignity is strictly forbidden (Sadeghi, 2001: 4). In the Holy Qur'an, causing harm to men and women who have committed no wrong is considered a sin and is prohibited (Surah Al-Ahzab, Verse 58).⁶ In addition to the Qur'anic verses, numerous narrations (riwayat) also deem all forms of torture forbidden (haram).

⁶ . "And those who harm believing men and believing women for what they have not earned have certainly borne a slander and an obvious sin."

Some researchers in the Islamic field have attempted to prove the absolute prohibition of torture by relying on various arguments, some of which will be examined below.

The Presupposition of the Primary Rule and Principle (Asl-e Avali)

In most jurisprudential matters, one must establish a foundational principle to examine and deduce the relevant rulings. Thus, the presupposition of the primary principle regarding any interference with the physical, psychological, and proprietary integrity of others is the impermissibility of such interference. Jurisprudents (ulama) have cited this principle in various sections under the title “Asalat al-Hurma fi al-Dima’ (al-Nufus) wa al-Amwal wa al-Furuj” (The principle of prohibition concerning blood (souls), property, and honor) (Mousavi Khoei, 1997: 171; Hilli, 1994: 61; Mousavi Khomeini, 1994: 118; Hosseini Langeroudi, 2001: 184). Based on this principle, any form of assault, harm, and torture is considered prohibited and forbidden, unless there is a conclusive religious proof (dalil) for its permissibility. Some jurisprudents have referred to this matter under the titles “Tahrim Iza’ al-Momin” (The prohibition of harming the believer) (Hurr Ameli, 1995: Vol. 7, 587; Nouri Tabarsi, n.d.: Vol. 9, p. 99) and “Tahrim Ihanat al-Momin” (The prohibition of insulting the believer) (Hurr Ameli, 1995: Vol. 8, 588; Nouri Tabarsi, n.d.: Vol. 9, 101), emphasizing the absolute prohibition of torture.

The Principle of Human Dignity (Karama al-Insaniyya)

Human dignity is one of the most fundamental and important principles mentioned in the Holy Qur’an for the preservation of human rights and values. As verse 70 of Surah Al-Isra emphasizes the superiority of human beings over other creatures (Surah Al-Isra/70).⁷ This verse is considered one of the most explicit religious texts to prove human dignity. The basis of human dignity is the faculty of reason and perception that God has placed only in human beings. A human being with such characteristics can be God's vicegerent on earth. According to religious texts, all human beings are considered dignified and honorable (Nobahar, 2005: 613-632). Dignity is an inherent characteristic that cannot be taken away from a human being under any circumstances. Even the most criminal individuals possess this quality and have the right to a fair trial, the right to defense, and the right to be punished in a manner that respects human dignity (Ghomashi, 2014: 262). Article 39 of the Constitution also emphasizes respecting the dignity of individuals and prohibits and criminalizes any violation of the dignity of those who have been arrested, detained, imprisoned, or exiled by law.

Torture, as a brutal act, not only violates the most fundamental human rights but is also considered one of the worst behaviors against a human being. As a result of torture, the right to life, the right to physical and psychological integrity, the right to human dignity, the right to freedom, the right to respect for one's reputation, the right to security, the right to freedom of belief, and other civil rights are wholly or partially violated (Mohammadi, 2017: 71). Therefore, given the destructive effects of torture on human dignity and other fundamental rights, its absolute prohibition is well-established. This demonstrates the fundamental importance of human dignity in legal and religious systems and highlights the urgent need to address it, especially in the face of inhuman and rights-violating behaviors.

The Principle of Innocence (Asl-e Bara’at)

The principle of innocence is considered one of the most important principles in criminal law. This principle is regarded as the foundation for ensuring the rights and freedoms of citizens. Some authors have described this principle as the "golden rule" and the "mother of all principles" (Nobahar et al., 2017: 174). A narration from Imam Ali (peace be upon him) also points to the importance of respecting the principle of innocence of the accused: "I do not arrest anyone merely on suspicion, and I will not punish anyone based on a mere assumption" (Ibn Abi al-Hadid, 1984, Vol. 3: 148). Based on this principle, the

⁷. "And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference."

act of torture is considered a violation of the rights of the accused and the principle of innocence, because these acts prevent the arbitrariness of judges and law enforcement officers in arresting and infringing upon citizens' rights, while at the same time ensuring the freedom of the accused.

Critique and Examination of Arguments for Qualified Permissibility of Torture

Despite the reliable reasons and documents regarding the prohibition of torture in Islamic teachings, some Islamic jurists, in specific cases, have proposed the permissibility of torture and tormenting the accused under exceptional circumstances and have provided justifications. Islamic scholars, relying on principles such as “Qaidah-e Aham bar Mohim dar Farz-e Tazahum” (the rule of prioritizing the more important in case of conflict) and “Qaidah-e Daf’e Afsad be Fased” (the rule of averting the greater evil with the lesser evil), have permitted torture in special circumstances, such as in the ticking time bomb scenario or to preserve the state system (Nobahar et al., 2017: 164). The rule of prioritizing the more important in case of conflict means that in specific situations, the preservation of a higher interest takes precedence over the prohibition of torture and the infliction of harm. Thus, there is no contradiction in the view of those who believe in the absolute prohibition of torture, as the arguments for respecting individuals and prohibiting harm and torture do not apply in cases of conflict and the emergence of secondary titles like the preservation of the state (Meshkini, 1998: 151). Fundamentally, the value of preserving the state system is realized when this right is not used to limit or abrogate the fundamental rights and freedoms of citizens. The legitimacy of governments usually depends on the protection and defense of citizens' rights, which itself is a manifestation of governmental justice and freedom (Ardabili, 1998: 113). In contrast, the harm caused by torture is so great that it challenges the legitimacy of the government, even if it achieves valuable and significant outcomes.

Another argument proposed for the qualified permissibility of torture is the rule of averting the greater evil with the lesser evil. Some members of the Assembly of Experts for the Constitution have raised the possibility of permitting torture based on this very rule (Detailed Minutes of the Final Review Assembly of the Constitution of the Islamic Republic of Iran, 1985: 778). In the first explanation, torture is introduced as a corrupt, immoral, and anti-Islamic act. It is important to note that the preservation of the Islamic system is considered one of the most essential duties (wajibat), taking precedence over all other rulings. Consequently, any disruption to the Islamic system would have the most serious harms. Therefore, if the disruption of the Islamic system can be prevented through torture, this act may be permitted. However, on the one hand, the justification of torture based on the ruling to prioritize the more important (preservation of the state system) in conflict with the arguments (prohibition of torture and harm) lacks the necessary strength. On the other hand, it is true that if Islamic commandments are disregarded, neither a system nor Islam will remain. However, it must be remembered that the legitimacy and Islamic nature of a system depend on the preservation and implementation of Islamic law and divine values (Nobahar et al., 2017: 181-182). Therefore, torture, as a behavior that contradicts the inherent dignity of a human being, cannot be considered legitimate.

The provision and implementation of justice is one of the distinct characteristics of any government founded on values and is how it guarantees its legitimacy in society. Islamic and democratic governments that claim to implement justice must declare a complete prohibition on torture under any circumstances, because accepting an exception would be in conflict with one of the fundamental principles of criminal justice, which only permits punishment after a crime has been legally and religiously proven (Ardabili, 1998: 113). As a result, justice will not be served, and the public's trust in the government will be jeopardized. From another perspective, torture weakens social norms and challenges and discredits the penal system, which should protect the rights and freedoms of individuals and the oppressed (Mohammadi, 2017: 77). The consequence of such an approach is irreparable damage and the creation of a society filled with fear and terror that deeply penetrates the personal lives of individuals. Dr. Beheshti understood the consequences of this approach well. In response to Mr. Meshkini's question regarding the permissibility of slapping a suspect to obtain vital information, he said:

“Mr. Meshkini, please be aware that the issue is about opening a door. The moment this door is opened and they want to slap someone accused of the greatest crimes, be sure that it will lead to branding everyone” (Detailed Minutes of the Final Review Assembly of the Constitution of the Islamic Republic of Iran, 1985: 778).

Therefore, although some Islamic scholars have proposed the qualified permissibility of torture by citing arguments such as the preservation of the Islamic system, the rule of prioritizing the more important in case of conflict, and the rule of averting the greater evil with the lesser evil, these arguments are not strong enough to permit inhuman behavior and violation of the inherent dignity of individuals in specific situations. Therefore, Article 38 of the Constitution⁸ absolutely prohibits torture and provides two enforcement guarantees for this principle: First, confessions, testimonies, information, etc., obtained through torture are null and void,⁹ and second, the punishment of offenders as stated in Article 578 of the Islamic Penal Code (Discretionary Punishments Section).¹⁰

The Virtue Ethics Approach to Torture

Before examining the virtue ethics approach to torture, it is necessary to consider virtue ethics and the contexts of its emergence. Until the beginning of the Renaissance in the West, most philosophers, following Aristotle and Plato, believed in virtue ethics or virtue-based ethics (Borhani, 2016: 74). With the emergence of new ethical philosophies, virtue ethics almost completely left the scene, giving way to other major and minor philosophical trends. These trends continued until the beginning of the 1970s. Starting in this decade, the fundamental flaws and weaknesses in contemporary ethical trends were exposed by the ideas of some philosophers, making it clear that the new approaches in moral philosophy had failed to solve certain ethical issues and challenges. The revival of this type of ethical thinking dates back to 1959, when Elizabeth Anscombe examined moral philosophy without using the concept of “moral ought” (ibid.: 75-76), and thus, virtue ethics once again gained attention in society. “Virtue” generally refers to the translation of the Greek word “arete” (ἀρετή), the Latin equivalent of which is “Virtus,” and the common English term is “Virtue” (Dabiri, 2010: 6). The history of virtue dates back to the sixth century BC, and this word was particularly established in its moral sense by Plato and Aristotle (Aristotle, 2009: Vol. 4, 48). Virtue ethics is a system that theoretically traces back to Aristotle and practically to Socrates. Socrates introduced virtue into the category of ethics and equated it with knowledge (Hosseini, 2020: 22). In Greek society, virtue was known as a characteristic that determined the social role of individuals and represented excellence or gallantry, not merely what is commonly considered a moral virtue (Shahryari, 2006: 32). In heroic society, virtue encompassed any state that commendably demonstrated an individual's role in society. For instance, courage and fighting ability were considered the specific virtues of warriors, while loyalty and modesty were regarded as primary virtues for women (Porter, 2001: 96). Furthermore, virtue ethics was introduced into contemporary philosophy by Alasdair Chalmers MacIntyre in 1981. This ethical trend argues that morality, more than anything, is a system for a worthwhile life, and to achieve this goal, a human being must employ virtues. The virtues raised in virtue ethics include “acquired human characteristics” and the habits that result from and maintain those traits. By acquiring virtues, tangible or intangible goods are obtained, but these goods are not preserved in

⁸. Article 38 of the Constitution: “Any form of torture to obtain a confession or information is forbidden. The compulsion of a person to give testimony, a confession, or an oath is not permissible, and such testimony, confession, or oath is null and void. The offender of this principle shall be punished by law.”

⁹. Article 169 of the Islamic Penal Code: “A confession obtained under duress, coercion, torture, or mental or physical torment is null and void, and the court is obligated to conduct a new investigation of the accused.”

¹⁰. Article 578 of the Islamic Penal Code (Discretionary Punishments Section): “Any government judicial or non-judicial employee or official who physically abuses or torments an accused person to compel him to confess shall, in addition to qisas or the payment of diya as the case may be, be sentenced to imprisonment for a term of six months to three years. If anyone has ordered this, only the person who gave the order shall be sentenced to the aforementioned imprisonment, and if the accused dies as a result of the abuse and torment, the perpetrator shall be punished as a murderer and the instigator as an accessory to murder.”

isolation; rather, they are internal to "practices" or coherent, complex, and cooperative activities that are embedded in larger traditions and cultural ideologies (Einolf, 2016: 3).

The main difference between virtue ethics and other ethical theories is that this approach considers the sole fundamental question of ethics to be what gives a human being moral worth. The main discussion in virtue ethics is not solely focused on the act (like deontology) or the consequences of the act (like consequentialism); rather, it focuses on the agent and emphasizes that the agent must focus his attention on cultivating his own and others' virtues (Borhani, 2016: 75). In reality, the focus of the discussion is always on characters. Virtue ethics, more than other systems, emphasizes having a worthwhile life, and to achieve it, all moral virtues need to be employed. Therefore, virtue ethics is an important ethical system in society. Examining the virtue ethics approach to torture involves paying attention to the human values and virtues that exist in every society and which individuals strive to acquire and preserve. The question is whether torture can create virtue for the moral agent. It is necessary to examine virtues from the perspective of virtue ethicists and then discuss the prohibition of torture from their viewpoint.

The Nature of Torture in the Thought of Virtue Ethicists

From the perspective of virtue ethicists, an ethical behavior is an action that is capable of creating virtues for the moral agent. Therefore, the question is whether torture can create moral virtues for the torturer or whether, on the contrary, it leads to the weakening of his virtues? Before answering this question, it is necessary to examine virtues from the perspective of virtue ethicists. Virtue in moral philosophy refers to characteristics that have been expressed in the various thoughts of Plato, Aristotle, and other philosophers. Aristotle specifically emphasizes that "the goodness or badness of a behavior is measured by the good of the human being and his society, which he discovers in the polis" (Borhani, 2016: 77). From his perspective, the agent, by employing reason and contemplation, must achieve the ultimate good, which is happiness. For this reason, moral virtues play a key role in the realization of human happiness. Since torture is not compatible with human reason and contemplation, it will not entail the good of the human being. Plato considers the four cardinal virtues to be wisdom, courage, temperance, and justice (Allhoff, 2005: 251). Similarly, Socrates considers virtue as an existing reality in the real world that must be discovered, and he sees it as knowledge that is only beneficial if it stems from understanding and reason (Hosseini, 2020: 49). Aristotle divides virtues into two categories: moral virtues (such as courage and honesty) and intellectual virtues (such as theoretical and practical wisdom) (Hosseini, 2020: 57-58). Philippa Foot [7] says that virtues are dispositions that enable the agent to live a happy life (Hosseini, 2020: 25). Furthermore, many philosophers, including Thomas Aquinas, consider virtue as a characteristic that is the mean between excess and deficiency (Khazaei, 2007: 80-82). Some have paid more attention to the social role of virtue than to its internal virtues. They have described virtues as "becoming a disposition," "becoming a stable state," "habit," "innate skill and talent," "rational disposition," "motivational dispositions," and "praiseworthy" (Pinkavcs Edmund, 1999: 22). In general, six basic components of virtue-oriented ethics can be considered as key features:

1. Teleological nature: All beings, especially human beings, have a goal toward which they organize their behaviors to achieve that goal.
2. Emphasis on being, not on action: The main goal of ethics is to cultivate virtues and internal dispositions; life must be virtuous, and the moral agent must pay attention to the growth of his internal virtues.
3. Intrinsic value of virtue: In this theory, virtue plays the main role; behaviors must be done virtuously and focus on the expansion of virtues.
4. Priority of virtue over obligation: In virtue ethics, there are no abstract and general laws; the moral agent is himself virtuous and possesses practical wisdom.
5. Importance of the moral saint: Individuals who have succeeded in cultivating their virtues should be a role model for others and hold a special status.

6. Role of motive and intention: In virtue ethics, intention and motive determine the value of actions (Khazaei, 2007: 41-48). Aristotle believed that virtuous behavior must arise from an internal disposition and a moral motive (Borhani, 2016: 80-82). The above points can help in a deeper understanding of the role of virtues in human moral and social life.

Therefore, what has been discussed in the thought of virtue ethicists, including both internal and social virtues, shows that torturing individuals is not compatible with any of the examples of moral virtues and cannot lead to the creation or expansion of virtues in the moral agent. This behavior is not only irrational but also, instead of promoting individual good and social happiness, provides grounds for the abuse of power by individuals and officials of government institutions.

The Prohibition of Torture in the Thought of Virtue Ethicists

Since the virtue ethics approach emphasizes the perfection of virtue in the behaviors of moral agents, examining torture from this perspective is of great importance. Some individuals might consider the limited permission of torture in exceptional circumstances—which could lead to saving the lives of several people—as an ethical act. By examining the theories of virtue ethicists, it is observed that this act not only does not lead to an increase in virtue for the torturer, but rather weakens some of his virtues, such as gallantry and compassion, and provides a basis for the emergence of undesirable behaviors in society. Therefore, its absolute prohibition in the normative virtue system is proven by the following arguments.

Some defenders of torture, in accordance with the principles of justice, have raised the argument that in special circumstances, torturing an individual may lead to obtaining vital information that prevents the occurrence of unfortunate events and saves the lives of hundreds of people. However, it should be noted that these types of arguments are highly disputed, and virtue ethicists generally oppose them. Plato defined justice as the harmony of the tripartite soul and emphasizes that this concept must be implemented under the guidance of the rational element. Aristotle, by creating a classification of justice, divides it into two types: distributive justice¹¹ and corrective justice,¹² and raises the distinction between universal and particular (Allhoff, 2005: 252). Since there are ambiguities regarding the existence or non-existence of vital information, and the truth or falsity of this information from the person being tortured, the use of inhuman behaviors and the violation of human rights are contrary to common sense. In other words, justifying torture due to the possibility of obtaining correct and vital information lacks the logical and rational basis of Plato. On the other hand, torturing individuals based on conjecture violates the principles of Aristotle's corrective justice. In this type of justice, all individuals are considered equal in their fundamental and human rights. Therefore, torturing individuals also contradicts the concept of Aristotle's distributive justice.

In addition, torture in exceptional circumstances is considered an unjustified and evil act. This act is not only not considered an ethical behavior, but it also leads to the formation of undesirable and inhuman habits in the torturer, as many previous moral researchers have pointed out (Einolf, 2016: 3). According to Alasdair MacIntyre's definition, a moral act must be a coherent, complex, and cooperative activity that possesses internal goods and good moral habits. Consequently, since torture is an inherently wrong action, all the goods and moral habits associated with it are also wrong and impossible. On the other hand, torture "does not create the virtues of courage, justice, temperance, and practical wisdom in its practitioners, but is precisely the opposite of them" (ibid.). Subjecting an individual to torture severely affects his physical and psychological state and leads to the deterioration of moral virtues such as truthfulness, honesty, self-respect, courage, and justice. This is because the victim of torture may resort to

¹¹ . Distributive justice is one of the examples of justice that is created in the relationships between an individual, the state, and individuals with one another. Distributive justice means the distribution of social positions, government posts, money, and other privileges—both material and spiritual—among the members of a society based on their merit and worthiness.

¹² . Corrective justice means the equality of citizens in rights and human dignity, and merit and worthiness are not effective in this definition of justice. In this sense, all individuals in a society have equal human and fundamental rights.

immoral actions, including lying or deceit, in an attempt to escape the dangerous situation. Some thinkers, such as Thomas Aquinas, define virtue as a characteristic that is the point of balance between excess and deficiency (Khazaei, 2007: 80-82). Torture is clearly inconsistent with this principle because acts that are contrary to humanity and the inherent dignity of individuals not only violate their fundamental rights but also prevent the acquisition of correct information, the exercise of sovereignty, and the provision of security for citizens, which represents the ultimate excess and deficiency of individuals.

The Utilitarianism Approach to Torture

Utilitarianism, or moral utilitarianism, is one of the key theories in the field of normative ethics that falls under the category of consequentialist theories. This theory is known as one of the most famous and influential consequentialist interpretations. In its specialized meaning, utilitarianism refers to a set of teleological theories based on the "principle of utility." Today, there are a number of different interpretations of utilitarianism that, with a slight degree of leniency, are also referred to as utilitarianism (Hosseini Souraki, 2005: 88). As a collectivist and universalist approach, utilitarianism is distinguished from the other two theories in consequentialist ethics, namely egoism and altruism (ibid.). In 1958, Anscombe, for the first time in an article titled "Modern Moral Philosophy," used the term "consequentialism", which examines the results and consequences of human actions. In introducing this theory, Anscombe specifically links it to the ethical theory of utilitarianism. For this reason, these two theories are usually presented simultaneously or used interchangeably (Movahedi, 2010: 157). It is worth noting that utilitarianism, as a specific form of consequentialist ethical theories, is a subcategory of these theories. In fact, utilitarianism is a theory that holds that the sole ultimate criterion for evaluating the rightness and wrongness of actions and moral obligations is the principle of utility. This principle means that ethical actions must always consider the collective and group interests (Kiumarh et al., 2020: 17). The principle of utility regards the maximization of pleasure and well-being and the minimization of pain and suffering as the only things that are inherently desirable (Alizadeh-Tabatabaei et al., 2018: 123). Therefore, from the perspective of utilitarians, the criterion for the ethicalness of an action is achieving universal benefit and considering public interests. The followers of this theory are generally proponents of the use of torture to obtain vital information, especially in the context of security and political crimes. They believe that the value of the information obtained outweighs the violation of the fundamental rights of some individuals. Despite its popularity and influence in ethical debates, the theory of utilitarianism faces serious challenges and criticisms that can call their theories into question. The most important criticisms in this regard are ignoring the rights of minorities, the difficulty in predicting consequences, and the justification of immoral and inhuman behaviors (Farahbakhsh, 2010: 71-75), which leads to the reduction of the value, character, and individuality of persons. This theory may, in an attempt to maximize happiness for the majority, ignore the interests and rights of smaller groups or minorities. Such an approach can lead to oppression and the violation of human rights. This is because accurately predicting these consequences in practice is very difficult.

The Functions of Torture in Utilitarian Ethics

One of the obstacles to combating anti-human behaviors is the arguments that the theory of utilitarian ethics has provided for the necessity of preserving interests in society. Although these arguments are not new in the current conditions, they also do not have sufficient strength. Individuals who have defended torture have based their arguments on the usefulness of this method and have tried to find a rational basis to justify it (Ardabili, 1998: 107). However, the weakness of these arguments and the lack of a match between the conditions for carrying out torture and the ethical principles that emphasize human dignity and intrinsic worth are clearly evident. Various approaches to utilitarianism have been proposed in moral philosophy, each of which will be examined in terms of its view on torture.

According to act utilitarianism, to determine the rightness or obligatoriness of actions, one must always consider the principle of utility. This approach does not permit the use of any rule or

generalization from past experiences and believes that in each specific case, the effects and results of all available actions must be measured and calculated in terms of public welfare and the benefit of the majority (Kiumarth et al., 2020: 17-18). Therefore, act utilitarianism, by calculating the results of actions, argue that if the act of torture leads to the realization of the function of universal utility and public welfare, it can be considered an ethical behavior. On the other hand, rule utilitarianism emphasizes the central role of rules in determining the criteria, goals of rulings, and ethical propositions. This approach holds that it is necessary to determine our duties in specific situations by resorting to ethical rules and to consider it as a rule. The rule-based theory claims that the way to determine rules is always to examine which rule creates the greatest public good and universal welfare for society (ibid.: 18). Therefore, rule utilitarianism consider the act of torture in special circumstances to be legitimate only if this behavior is accepted as a general rule by everyone, which has a public good and provides the most benefit. The principle of utility, as a fundamental principle in utilitarianism, is the maximization of pleasure and well-being and the minimization of pain and suffering (Alizadeh-Tabatabaei et al., 2018: 123).

Hedonistic utilitarianism, which is the theory of Jeremy Bentham, considers pleasure as the only good and pain as the only evil. Jeremy Bentham believed that people should strive to maximize pleasure, and this is possible by creating the greatest happiness for the greatest number of people (Borhani, 2016: 86). In his view, people naturally seek to gain benefit and escape from pain and suffering (Alizadeh-Tabatabaei et al., 2018: 123). It is the pursuit of benefit or escape from pain and suffering that leads a person to any kind of wrongdoing. Bentham identified fourteen types of pleasure that human nature is capable of experiencing. These types of pleasure include pleasures related to the five senses, wealth, power, skill, friendship, reputation, and piety (Bentham, 2000: 35-38). He considered pleasure to be a quantitative and empirically calculable category. In his view, a behavior is ethical if it can measure the maximum pleasure or minimum pain based on criteria such as intensity, duration, certainty, proximity, fecundity, purity (in relation to the pain and suffering that lead to pleasure), and extent (the number of people affected by the action) (Dabbagh, 2009: 151-152). Bentham has granted permission for torture to obtain vital information in extraordinary circumstances¹³; this concept was later termed the ticking time bomb scenario in specific situations. He considers the suffering resulting from torture to be equivalent to the suffering inflicted on the criminal by justice. The universal benefit of the function of torture in this hypothesis (the ticking time bomb) is saving the lives of hundreds of people.

A group of teleologists, instead of defining their ends by pleasure, pay attention to concepts such as power, knowledge, perfection, self-realization, and happiness (Borhani, 2016: 85). The most famous presentation of this was provided by John Stuart Mill [8]. He believed that Bentham's theory of utilitarianism needed to be complemented. He believed that simply calculating the quantity of pleasures is not the right thing to do and that the quality of pleasures should also be considered in these calculations. Mill divides pleasures into two categories: higher and lower (base) pleasures and believes that the pleasure resulting from inventing and employing creative power or the pleasures related to the soul are the highest type of pleasure, which is higher than the pleasures resulting from sleep and food (ibid.: 88). He did not regard the principle of utility as a philosophy that is merely concerned with the self-interest and happiness of the moral agent. Rather, in his view, the greatest amount of happiness should be considered at a "general" level, and the concept of happiness is not limited to the happiness of the moral agent; rather, it refers to the happiness of the "group in question" (Alizadeh-Tabatabaei et al., 2018: 124). In addition, Mill made reforms to Bentham's utilitarianism, dividing utilitarianism into act-utilitarianism and rule-utilitarianism. Act-utilitarianism evaluates moral decisions based on the specific consequences of each individual act. In other words, it examines only one behavior based on its results (Farahbakhsh, 2010: 96). In this approach, performing or refraining from an act must provide the greatest pleasure and the least pain. In contrast, rule utilitarianism considers an act to be morally permissible if it can be made into a general and universal rule in society and seeks to create the greatest pleasure and the least pain for society. In other words, act-utilitarianism emphasizes performing actions that are in accordance with

¹³ . Means of Extraction for Extraordinary Occasions.

moral rules and seek to create the greatest pleasure, benefit, and best consequences (Gensler, 2008: 268), while rule-utilitarianism first seeks to make that behavior a general and universal rule that will have the greatest pleasure and the least pain for society.

Arguments for the Utilitarian Justification of Torture

The justification for torture in extraordinary events (the ticking time bomb) is generally based on Jeremy Bentham's hedonistic utilitarianism. This formulation of utilitarianism considers the right action to be the one that maximizes happiness and minimizes pain and suffering. Thus, the arguments for justifying torture will be examined. In the famous ticking time bomb scenario, utilitarians argue that to save the lives of several people, torturing a suspect for key information may be justifiable. The idea is that inflicting pain on one person is only justifiable if it leads to saving the lives of dozens or even hundreds of people. Therefore, obtaining useful information through torture to prevent a bombing can be considered a strong moral argument from a utilitarian perspective (O'Donohue and others, 2014: 111). The reason for justifying this behavior is the creation of collective happiness, which is greater than the pain and suffering inflicted on the suspect (Allhoff, 2005: 248), and this happiness is realized by saving the lives of hundreds of people.

Jeremy Bentham, one of the proponents of hedonistic utilitarianism, believed:

"There are very few cases in which, with a perfectly well-defined purpose, torture might be employed with an advantage that would outweigh the harm. ... situations in which significant numbers of people have suffered an illegal pain. A pain which, in intensity, is equal to the pain that, if inflicted on the criminal by the hand of justice, might generally be called torture. To save these hundred people from torture, an equal or greater torture must be inflicted on the criminal to extract the information required to get him to open his mouth and provide the necessary information. Should anyone who has the power to identify the location of this widespread evil be prevented from doing so? Regardless of reason and wisdom, could any pretense praise this degree of human lack of insight and banality, that a person would necessarily be indifferent to the same fate for a hundred innocent human beings by saving a single criminal" (Bentham, 1993: 514).

In fact, Bentham set six conditions for the permissibility of torture, under which an individual can be tortured: 1. Sufficient reasons, 2. Urgency, 3. Proportionality of the torture to the relevant situation, 4. The benefit outweighs the harm, 5. Legal supervision, and 6. The maximum effectiveness of torture within a limited time frame (Matthews, 2008: 59). Another interpretation of this argument emphasizes the necessity of choosing the lesser evil from among the available options. Some, considering the time constraints and the level of danger in this area, state: "When a simple utilitarian assessment shows that the undeniable benefits for the potential victims are worthwhile in comparison to the pain and suffering inflicted on the accomplice of the imminent crime... in certain special circumstances of urgency, it may be necessary to employ a utilitarian calculation to compare evil with evil" (Sheleff, 1987: 305-308). Other defenders of torture refer to the preservation of justice as a key principle. For example, the famous saying, "Let justice be done, though the heavens fall" (Kant, 1996: 138), shows that justice must be prioritized, even at the cost of causing suffering. These interpretations emphasize that the advancement of justice and the preservation of law in society are far more important than the negative effects resulting from the torture of a suspect. Some believe that if justice is endangered, human life on earth will be worthless (Alizadeh-Tabatabaei et al., 2018: 126). Other supporters of torture, arguing based on "distributive justice theory," have called for the use of torture based on the person's degree of criminality in special circumstances. According to this theory, justice allows a non-criminal person to prioritize their right to life over the right to life of a criminal person, because the criminal person has created a situation where there is a possibility of a non-criminal person being harmed (Montague, 1981: 207).

Therefore, hedonistic utilitarianism, by setting special conditions for the use of torture, considers it permissible and ethical in some scenarios, especially in situations like the ticking time bomb. These

theories, by accepting the imminence of the danger, consider the suffering that leads to saving the lives of others as an ethical act (Alizadeh-Tabatabaei et al., 2018: 127).

Critique of Utilitarian Arguments for Justifying Torture

In light of the arguments for justifying torture from utilitarians, there are criticisms in this area that will be examined. The most important concerns that arise from the justification of torture are the use of torture as a punishment, instead of a tool for extracting information (Carlsmith & Sood, 2009: 102). Furthermore, there is the possibility of individuals engaging in excess and deficiency in torturing people, for which sufficient measures have not been considered to prevent it (O'Donohue et al., 2014: 111). If this issue is viewed from the perspective of consequentialist moral philosophy, the ticking time bomb scenario is unrealistic and fabricated. This is because the negative consequences of torture are greater than its positive consequences (Einolf, 2016: 3). Gaining legitimacy and preserving individual rights and freedoms are considered fundamental principles of any political system. The justification of torture leads to the limitation of these rights and freedoms, and consequently, it tarnishes the legitimacy of governments (Ardabili, 1998: 113). Justice, which is recognized as the most important principle in good governance, is called into question by the use of torture. Furthermore, obtaining vital information through torture is used as a tool in public relations and recruitment for terrorist organizations, which weakens governments' efforts in combating terrorism (Einolf, 2016: 3). Another argument for justifying torture is the one raised by rule utilitarianism. Although rule utilitarians act with greater caution when dealing with this issue and consider specific conditions, if fulfilled, would allow torture to be justified (Alizadeh-Tabatabaei et al., 2018: 134). Mark J. Buha lists seven conditions from a rule utilitarian perspective for torture to be effective: the existence of a real terrorist threat; the imminence of the threat; the threat being so dangerous as to justify torture; the accused's access to the necessary information to neutralize the threat; the ability to compel the victim to reveal information through torture; the reliability of the revealed information; and the torturer's ability to distinguish between truthful and false information (Buha, 2010: 304). Even though rule utilitarians have considered conditions for the use of torture, it is difficult to achieve the benefit resulting from it. If authorities were to quickly verify this information, on one hand, the likelihood of obtaining confirmed information would decrease, and on the other hand, the aforementioned conditions are not applicable in an extraordinary situation.

The most important reason that can be named for rejecting the arguments for justifying torture is the doubt about the truthfulness of the information obtained. If the matter is viewed rationally, citing examples to explain exceptional circumstances for the permissibility of torture seems unrealistic and idealistic. In many cases, torture leads to false information, which at best results in a waste of time and resources, and at worst, leads to the conviction of individuals for crimes they did not commit; this is because many victims are willing to say anything to stop the torture (Alizadeh-Tabatabaei et al., 2018: 140). The veracity of information obtained through torture is questionable because individuals may say anything to escape torture, which not only does not help in obtaining useful information but also leads us down the wrong paths (O'Donohue et al., 2014: 112). On the other hand, the use of torture is not excusable even in special and exceptional cases, as it leads to the breaking of the taboo against torture, the normalization of this concept, and the spread of a culture of torture in government procedures (Alizadeh-Tabatabaei et al., 2018: 140).

Therefore, in light of the arguments presented, the justifications for torture in exceptional circumstances are refutable. Research results show that even in the most difficult circumstances, an individual cannot be subjected to mental or physical torture for the purpose of obtaining information, because torture is in conflict with the inherent dignity and human rights of a person and cannot achieve the goals that utilitarians seek (maximum pleasure and minimum pain) (Ramazani, 2011; Daneshou, 2017; Alizadeh-Tabatabaei et al., 2018; Teimouri, 2018; Alizadeh-Tabatabaei et al., 2017). In addition, the failure to define the limits and scope of the use of torture and its extent creates serious challenges for justifying torture. Utilitarians have not been able to specify how long and to what extent torture should

continue if the victim does not provide correct information; should it be until the person's death, once, or multiple times? These issues severely question the justification of torture in exceptional circumstances and prove its absolute prohibition.

The Deontology Approach to Torture

Deontological ethics is one of the major theories in normative ethics, with various types and interpretations. Kant's rationalism, David Ross's intuitionism, Rousseau's social contract theory, the Divine Command Theory, and existentialist ethics are considered deontological views (Atrak, 2010: 27). This diversity in the different interpretations of deontology has led to the lack of a single, unified definition. Each of the different definitions for deontology only includes some of its types. Most thinkers have defined deontology by contrasting it with its opposite theory, teleology. Deontologists consider duty to be the criterion for measuring moral actions. This means that the rightness of moral actions stems from an obligation; an obligation that is inherent in the act itself, not in its result (Movahedi, 2010: 166). Therefore, the rightness and wrongness of actions arise from the nature of the act itself. That is, a good act is inherently worthy of praise, not based on its consequences. Deontologists believe that other properties besides the goodness or badness that exist in the consequences of an action determine its rightness or wrongness. For example, that action may be an instance of fulfilling a promise or justice, or it may have been commanded or forbidden by God (Atrak, 2010: 28). Since deontologists believe that the rightness of a behavior is primarily inherent in the behavior itself and not in its consequences, examining torture from this perspective is of great importance. All torturous behaviors towards an individual who possesses prominent human characteristics, fundamental rights, and inherent dignity are, by their very nature, ugly and undesirable. Although there are different interpretations of non-consequentialist ethics, the purpose of this section is to examine torture from the perspective of the most famous deontological ethical approach, namely Kantian ethics. In this regard, the fundamental principles of Kant will be analyzed and it will be shown how these principles classify torture as an unethical and unjustifiable act.

The Nature of Torture in Deontological Thought

Deontological theories are divided into two main parts depending on the role they assign to general rules: First, act deontologists who believe that all fundamental judgments about obligation are either entirely specific (such as "in this situation, you must do so and so") or general rules (such as "you must always keep your promises") are either unattainable and useless, or at most, derived from specific judgments. Second, rule deontologists who believe that the criterion of rightness and wrongness includes one or more rules. These rules are either very concrete (such as "I must always tell the truth") or very abstract, which includes principles such as justice (Frankena, 1997: 49-50). Act theories do not provide any specific criterion for determining what is right or wrong in specific cases. These theories, while emphasizing the particularity of moral judgments, deny the existence of any general rule about judgments (Borhani, 2016: 91). One of the most important rule-based deontological theories is Immanuel Kant's moral theory. He argues that the goodness or badness of an action lies in the agent's intention, not in its consequences. Based on this, agents should use reason, not emotions, to determine their moral duties, and they should treat other people as ends, not as a means to an end (Einolf, 2016: 2). In Kant's moral theory, a moral act arises from a free will, a sense of inner duty, and the free choice of individuals (Nobahar, 2008: 324) that is acceptable to all.

In "The Metaphysics of Morals," Kant, by dividing duties into duties of right¹⁴ and duties of virtue,¹⁵ states:

¹⁴ . A duty of right means a responsibility or obligation that is created by the existence of a right. When an individual has a right, this right naturally creates one or more duties (obligations) for others. For example, if someone has the right to education, society and the government are obligated to provide the necessary conditions for their education.

"A foreign legislator is possible for a duty of right, but for a duty of virtue, such a thing is not possible. For a duty of virtue is in search of an end, which this end or the possession of it, is itself a duty, and no one can legislate ends for himself through external legislation, because this act is an internal mental act" (Kant, 2001: Vol. 1, 76).

Given the premises of Kantian deontological theories, torture is clearly in conflict with Kant's ethical principles and criteria. From this perspective, torturing individuals is not only an unethical act but also contradicts the principles of ethical behaviors based on internal intentions and the free will of human beings. Moral behaviors from Kant's perspective are formed based on rational analyses and are independent of personal feelings and instincts. In contrast, torture is an act that is performed to achieve specific interests and is mainly influenced by flawed emotions and feelings. In this way, it can be said that torture not only violates a criterion of ethical behavior but also harms the fundamental criteria of humanism and respect for human dignity.

The Prohibition of Torture in Deontological Thought

Given the theories of deontologists, it is not possible to extract principles and rules that would tend to justify torture in exceptional circumstances. For this reason, the absolute prohibition of torture is proven by these theories. Immanuel Kant believed that a behavior is considered ethical when it can be accepted as a universal and general rule. In this regard, any behavior that leads to the violation of the fundamental rights of human beings is morally wrong and unjustifiable. For this reason, he considered a proposition that cannot be converted into a general rule to be unethical, in such a way that every principle must have the potential to be universalized (Borhani, 2016: 93). Kant named this principle the "Moral Law" or "Categorical Imperative" and provided three basic formulas for it.

First Formula: Known as the "Principle of Internal Consistency or the Universal Principle." It states: "Act only according to that maxim whereby you can at the same time will that it should become a universal law." This means that to evaluate an action, we must examine whether it can be recognized as a universal rule or not (Sullivan, 2001: 63). In other words, your behavior should be such that ordinary human reason would recognize it (Moloney, 2010: 135). Specifically, Kant emphasizes that one can never recognize an anti-human behavior such as torture as a universal principle, because its consequences are in conflict with moral values and human rights. Based on this, torture is absolutely forbidden.

Second Formula: Known as the "Principle of the End-in-Itself or the Principle of Human Dignity." Kant says: "Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end" (Borhani, 2016: 94). This means that no one should be used as a tool, because every human being inherently has value and a purpose. This point is due to the fact that a human being is a rational agent; that is, an agent who can freely decide, set his goals, and guide his behavior with reason (ibid.). Here too, torture clearly violates this formula, because the victim of torture is used not as an end but as a means to achieve other goals (Allhoff, 2005: 256). On the other hand, in torture, the natural aspects of a human being such as honesty and self-respect are targeted, and the person is humiliated (Sung, 2003: 204). Therefore, according to this principle, torture is not only unethical, but the victim is also treated in a degrading and inhuman way.

Third Formula: This formula is known as the "Principle of Autonomy" or the "Formula of Legislation for a Moral Community." This principle states that individuals must act in such a way that their will can at the same time perceive itself as a giver of a general or universal law (Holmes, 2004: 257). In other words, every rational person must act as if he is always a legislating member of a moral

¹⁵ . A duty of virtue is formed based on an individual's ethical characteristics and virtues. In this view, the focus is on moral virtues and good traits as the basis for moral action and decision-making. For example, if an individual considers "honesty" a virtue, they must be honest in all their interactions and refrain from lying or deceiving others.

community (Sullivan, 2001: 129). Thus, this formula says that an ethical act must arise from an autonomous will that perceives itself as the law.

Therefore, from Kant's point of view, torture not only cannot be accepted as a universal principle but is also clearly in conflict with ethical principles due to the violation of human dignity. Humanity and respect for others should always be considered as the ultimate goal and not merely as a means to achieve specific goals. So, it is obvious that from Kant's and the deontological ethical system's point of view, torture is absolutely forbidden, and this is clearly understandable.

Conclusion

Following the humanitarian crimes at Abu Ghraib, Guantanamo, and other prisons, the debate surrounding the prohibition of torture as a tool for obtaining information and confessions from accused individuals was raised more seriously. The question arose whether torture is absolutely forbidden or if it is permissible in specific circumstances. Is it possible to subject individuals to torture to obtain useful information in cases related to national security, such as major crimes like bombings? Although numerous international documents have advocated for the protection of human rights and personal liberties and have obligated states to respect the fundamental rights of their citizens, governments, under various pretexts, still violate the fundamental rights of individuals and subject them to violent and harsh behaviors in the name of exercising their sovereignty. Human rights documents have indeed considered torture as an anti-human behavior and a violation of human rights, and have absolutely prohibited it. Instruments such as Article 20 of the Cairo Declaration on Human Rights in Islam (1990 AD), Article 5 of the Universal Declaration of Human Rights (1948 AD), Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950 AD), and Article 7 of the International Covenant on Civil and Political Rights (1966 AD), as well as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984 AD), have all emphasized the absolute prohibition of torture and obligated states to enact specific rules to protect these rights of individuals. Islamic law, as a comprehensive legal and ethical system, explicitly emphasizes human dignity and the prohibition of inhuman behaviors. The perspective of Islamic law on the prohibition of torture is not only based on human and ethical principles but also, based on religious teachings, verses of the Quran, and authentic hadiths, it firmly rejects any tormenting and inhuman act. Islam emphasizes that human beings must treat each other with respect, dignity, and fairness, and no justification for torturing and tormenting others can be acceptable. Although some Islamic jurists and thinkers have argued for a conditional prohibition of torture based on the principles of prioritizing the more important over the important (aham bar moham) and repelling a greater evil over a lesser one (daf'-e afsad bar fasid), the conducted research shows that it is not possible to justify an anti-human behavior that violates fundamental human rights based on these rules, because a human being has a human personality, inherent dignity, and human rights that cannot be taken away under any circumstances.

Normative ethical systems have emerged as specific semantic and behavioral frameworks for evaluating the rightness and wrongness of human behaviors and decisions. The emergence of these systems is the result of a complex interaction between philosophy, history, culture, religion, and scientific advancements. These systems not only serve as guides for distinguishing right from wrong but are also effective as tools for structuring human societies, improving the quality of social life, protecting human rights, and establishing justice. Given the recent developments in the global community and emerging ethical challenges, normative systems are in continuous evolution and development, and the need for re-evaluation and adaptation to new conditions is unavoidable. Therefore, examining unethical and inhuman behaviors like torture and the claims of some of its defenders in exceptional circumstances and for major crimes from the perspective of normative ethical systems is of great importance. This examination will help strengthen criminal laws, ensure criminal justice, and protect fundamental human rights and freedoms.

This research has addressed the topic of the prohibition of torture, from absolute prohibition to conditional permission, in the light of normative ethical systems. Although the absolute prohibition of torture is considered a fundamental principle in human ethics, some normative ethical systems have posited hypothetical limitations regarding torture, especially in emergency situations. This approach can lead to serious abuses and bring about more harm than absolute prohibition. Based on the analysis of various examples of torture and ethical theories such as virtue ethics, utilitarianism, and deontology, it is concluded that torture is not only recognized as an inhuman and unethical act but can also have deeper negative social, psychological, and human rights consequences. The virtue ethics system, which was proposed by Socrates, Aristotle, and later thinkers and was connected to modern moral philosophy by MacIntyre, emphasizes human characteristics as virtues. In this system, attention to moral values is important; in a way that both the act itself and its consequences must be virtuous. From the perspective of this system, the conditional prohibition of torture leads to the decay of virtues in both the moral agent and the victim. Virtues such as justice, honesty, truthfulness, and keeping promises are destroyed as a result of the use of torture. The utilitarian ethical system, which is part of the consequentialist ethical system, was founded by Bentham and emphasizes that ethical behavior is related to the maximum utility and pleasure and the minimum suffering and pain. Based on this, in exceptional circumstances, torture might be used as a tool to achieve desirable consequences. However, evidence shows that justifying torture on the assumption of greater benefit and pleasure may in practice lead to the opposite results and provide conditions for abuse. The deontological ethical system, which is mostly known through Kantian rule deontology, emphasizes the principle that a moral act depends on the agent's intention, not on its consequences. In this regard, agents must use reason and logical arguments to determine their moral duties, and not personal feelings. Furthermore, they must treat other human beings as an end and not as a means to achieve their own goals. Thus, torture, which is performed to achieve specific goals such as obtaining information or inflicting punishment, is considered from the perspective of deontological ethics as the use of a human being as a means. This is while every human being has an independent purpose and end. In addition, torturing a human being is in conflict with Kant's three formulas. Therefore, based on this ethical system, there is no justification for torture, even in exceptional circumstances, because this act is ethically worthless.

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