

Auschwitz to Attica - Methodologies of Psychological Abuse

By John MacKenzie

Preface

“Every prisoner with a sensitive nature suffers much more from unjust, malicious and intended psychological abuse than from physical abuse. He perceives it to be much more humiliating and depressing than any physical abuse.”

“They all easily survived the hard part of camp life because they had a “reasonable assurance” that they would be free again after their time was up. There was no set prison term for political prisoners. It depended on factors, which were unpredictable.¹ The prisoners knew this and that’s why they suffered so much, and because of this uncertainty, life in the camp became torture for them. I spoke to many intelligent and perceptive political prisoners about this uncertainty. They all said that they could suffer all the indignities of camp life, such as the impulsiveness of the SS guards or the prison seniors in charge, the harsh discipline, living together in close quarters, the monotony of all the daily routines; all of that could be endured, all of that could be overcome, but not the uncertainty of not knowing how long they would remain in the camp. This was the most crushing blow, which paralyzed even the strongest will. From my observation, the unknown length of the sentence and its depending on the whim of low-ranking officials exerted the strongest and the most negative influence on the mental health of the prisoners.” (*Death Dealer* - The Memoirs of the SS Kommandant at Auschwitz - Rudolph Höss – Schutzstaffel)

Commentary: As stated in *Death Dealer*, there was “reasonable assurance” that they [prisoners] would be free again after their time was up. That belief was further advanced by the German propaganda phrase, “Work Shall Set You Free,” which was conspicuously displayed over the main entrance to Auschwitz. The term “reasonable assurance” also bears a striking resemblance to the current term “reasonable probability” used in the parole statute and the term “reasonable expectation” used in other sections of the parole laws. Likewise, after comparing the effect of not knowing when one will be free with the consistent denial of parole based on the one factor that will never change, one has to wonder whether the same method of torture is being systematically applied to those serving life sentences. New York prisoners generally suffer the same indignities of prison life: the pettiness, the arbitrary enforcement of rules by prison guards, the harsh discipline, living in close quarters, the monotony of repetitious daily routines, lack of meaningful choices, loneliness, and nausea. All of that can be endured and overcome, but New York State prisoners cannot endure the uncertainty of not knowing how long they will remain in prison.

¹ Compare indeterminate sentences with a minimum of 15 years up to and including 25 years with a maximum of Life. Also note that contemporary laws allow for a sentence of life without parole. The distinction being with an indeterminate sentence of 25 years to life, one has a [reasonable] expectation of parole once the minimum term is served, providing program requirements have been met and one maintains a good disciplinary record. Unfortunately, the current trend is to continually deny parole even after meeting all the requirements, thus one’s release is unpredictable.

They cannot cope with the uncertainty of being granted parole. This is a crushing blow that paralyzes even the strongest will. The unknown length of the sentence especially after one has fulfilled requirements and conformed to the rules and regulations are particularly frustrating. One's freedom becomes dependent on the whim of parole commissioners; consequently all these factors exert the strongest and the most negative influence on the mental health and stability of the prisoner.

Two concepts conveyed by "*The uncertainty of not knowing when...*" and "*Without knowledge of what will be measured...*"² clearly demonstrate that both elements affect the emotional stability and overall wellbeing of those hoping for parole (freedom). It would also appear these terms are synonymous with the arbitrary and capricious (whim) standard of review and contribute to paralyzing even those with the strongest of will. As Davis states: "*One can imagine nothing more cruel, inhuman and frustrating.*" Further exacerbating an already debilitating situation is not being provided detailed reasons why parole was denied. Not being told what one must do to improve chances of parole is not only against the legislative intent, but also contributes significantly to the emotional stress that is detrimental to one's overall mental health and well-being. Together, both of these factors amount to cruel and inhuman punishment and are contributing factors in the deterioration of one's mental stability and serve only to foster hopelessness. It would be well to take heed of what Kenneth Culp Davis teaches: "*Where law ends tyranny begins. I think that in our system of government, where law ends tyranny need not begin. Where law ends, discretion begins, and the exercise of discretion may mean either beneficence, or tyranny, either justice or injustice, either reasonableness or arbitrariness.*" Davis, *Discretionary Justice*, 3 (196)

It would seem that history has taught us nothing about how we should treat people in a civilized society—even those being held in prison. If society wishes to rehabilitate as well as punish wrongdoers through imprisonment, then society must also ensure that "punishment" never crosses the line over to "torture." Society—through its lawmakers—must bear the responsibility of tempering justice with mercy. Giving a man legitimate hope is a laudable goal; giving him false hope is utterly inhuman.

² "*One can imagine nothing more cruel, inhuman, and frustrating than serving a prison term without knowledge of what will be measured and the rules determining whether one is ready for release.*" *The probability of release on parole having been held out to most prisoners and the possibility of release to the balance, fundamental fairness would seem to dictate that rather than subject a prisoner who is denied parole to the inhumanity of ignorance the state should as a minimum due process provide him with the reasons.*" Kenneth Culp Davis, *Discretionary Justice*, 132 (1969)