

In Defense of Torture

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Imagine that a known terrorist has planted a bomb in the heart of a nearby city. He now sits in your custody. Rather than conceal his guilt, he gloats about the forthcoming explosion and the magnitude of human suffering it will cause. Given this state of affairs—in particular, given that there is still time to prevent an imminent atrocity—it seems that subjecting this unpleasant fellow to torture may be justifiable. For those who make it their business to debate the ethics of torture this is known as the “ticking-bomb” case.

While the most realistic version of the ticking bomb case may not persuade everyone that torture is ethically acceptable, adding further embellishments seems to awaken the Grand Inquisitor in most of us. If a conventional explosion doesn't move you, consider a nuclear bomb hidden in midtown Manhattan. If bombs seem too impersonal an evil, picture your seven-year-old daughter being slowly asphyxiated in a warehouse just five minutes away, while the man in your custody holds the keys to her release. If your daughter won't tip the scales, then add the daughters of every couple for a thousand miles—millions of little girls have, by some perverse negligence on the part of our government, come under the control of an evil

genius who now sits before you in shackles. Clearly, the consequences of one person's uncooperativeness can be made so grave, and his malevolence and culpability so transparent, as to stir even a self-hating moral relativist from his dogmatic slumbers.

I am one of the few people I know of who has argued in print that torture may be an ethical necessity in our war on terror. In the aftermath of Abu Ghraib, this is not a comfortable position to have publicly adopted. There is no question that Abu Ghraib was a travesty, and there is no question that it has done our country lasting harm. Indeed, the Abu Ghraib scandal may be one of the costliest foreign policy blunders to occur in the last century, given the degree to which it simultaneously inflamed the Muslim world and eroded the sympathies of our democratic allies. While we hold the moral high ground in our war on terror, we appear to hold it less and less. Our casual abuse of ordinary prisoners is largely responsible for this.

Documented abuses at Abu Ghraib, Guantanamo Bay, and elsewhere have now inspired legislation prohibiting "cruel, inhuman or degrading" treatment of military prisoners. And yet, these developments do not shed much light on the ethics of torturing people like Osama bin Laden when we get them in custody.

I will now present an argument for the use of torture in rare circumstances. While many people have objected, on emotional grounds, to my defense of

torture, no one has pointed out a flaw in my argument. I hope my case for torture is wrong, as I would be much happier standing side by side with all the good people who oppose torture categorically. I invite any reader who discovers a problem with my argument to point it out to me in the comment section of this blog. I would be sincerely grateful to have my mind changed on this subject.

Most readers will undoubtedly feel at this point that torture is evil and that we are wise not to practice it. Even if we can't quite muster a retort to the ticking bomb case, most of us take refuge in the fact that the paradigmatic case will almost never arise. It seems, however, that this position is impossible to square with our willingness to wage modern war in the first place.

In modern warfare, "collateral damage" —the maiming and killing innocent noncombatants —is unavoidable. And it will remain unavoidable for the foreseeable future. Collateral damage would be a problem even if our bombs were far "smarter" than they are now. It would also be a problem even if we resolved to fight only defensive wars. There is no escaping the fact that whenever we drop bombs, we drop them with the knowledge that some number of children will be blinded, disemboweled, paralyzed, orphaned, and killed by them.

The only way to rule out collateral damage would be to refuse to fight wars under any circumstances. As a foreign policy, this would leave us with something like the absolute pacifism of Gandhi. While pacifism in this form can constitute a direct confrontation with injustice (and requires considerable bravery), it is only applicable to a limited range of human conflicts. Where it is not applicable, it seems flagrantly immoral. We would do well to reflect on Gandhi's remedy for the Holocaust: he believed that the Jews should have committed mass suicide, because this "would have aroused the world and the people of Germany to Hitler's violence." We might wonder what a world full of pacifists would have done once it had grown "aroused"—commit suicide as well? There seems no question that if all the good people in the world adopted Gandhi's ethics, the thugs would inherit the earth.

So we can now ask, if we are willing to act in a way that guarantees the misery and death of some considerable number of innocent children, why spare the rod with known terrorists? I find it genuinely bizarre that while the torture of Osama bin Laden himself could be expected to provoke convulsions of conscience among our leaders, the perfectly foreseeable (and therefore accepted) slaughter of children does not. What is the difference between pursuing a course of action where we run the risk of inadvertently subjecting some innocent men to torture, and pursuing one in which we will inadvertently kill far greater numbers of innocent men, women, and

children? Rather, it seems obvious that the misapplication of torture should be far less troubling to us than collateral damage: there are, after all, no infants interned at Guantanamo Bay. Torture need not even impose a significant risk of death or permanent injury on its victims; while the collaterally damaged are, almost by definition, crippled or killed. The ethical divide that seems to be opening up here suggests that those who are willing to drop bombs might want to abduct the nearest and dearest of suspected terrorists—their wives, mothers, and daughters—and torture them as well, assuming anything profitable to our side might come of it. Admittedly, this would be a ghastly result to have reached by logical argument, and we will want to find some way of escaping it. But there seems no question that accidentally torturing an innocent man is better than accidentally blowing him and his children to bits.

In this context, we should note that many variables influence our feelings about an act of physical violence. The philosopher Jonathan Glover points out that “in modern war, what is most shocking is a poor guide to what is most harmful.” To learn that one’s grandfather flew a bombing mission over Dresden in the Second World War is one thing; to hear that he killed five little girls and their mother with a shovel is another. We can be sure that he would have killed many more women and girls by dropping bombs from pristine heights, and they are likely to have died equally horrible deaths, but his culpability would not appear the same. There is much to be said about

the disparity here, but the relevance to the ethics of torture should be obvious. If you think that the equivalence between torture and collateral damage does not hold, because torture is up close and personal while stray bombs aren't, you stand convicted of a failure of imagination on at least two counts: first, a moment's reflection on the horrors that must have been visited upon innocent Afghanis and Iraqis by our bombs will reveal that they are on par with those of any dungeon. If our intuition about the wrongness of torture is born of an aversion to how people generally behave while being tortured, we should note that this particular infelicity could be circumvented pharmacologically, because paralytic drugs make it unnecessary for screaming ever to be heard or writhing seen. We could easily devise methods of torture that would render a torturer as blind to the plight of his victims as a bomber pilot is at thirty thousand feet. Consequently, our natural aversion to the sights and sounds of the dungeon provide no foothold for those who would argue against the use of torture.

To demonstrate just how abstract the torments of the tortured can be made to seem, we need only imagine an ideal "torture pill" —a drug that would deliver both the instruments of torture and the instrument of their concealment. The action of the pill would be to produce transitory paralysis and transitory misery of a kind that no human being would willingly submit to a second time. Imagine how we torturers would feel if, after giving this pill to captive terrorists, each lay down for what appeared to be an hour's

nap only to arise and immediately confess everything he knows about the workings of his organization. Might we not be tempted to call it a “truth pill” in the end? No, there is no ethical difference to be found in how the suffering of the tortured or the collaterally damaged appears.

Opponents of torture will be quick to argue that confessions elicited by torture are notoriously unreliable. Given the foregoing, however, this objection seems to lack its usual force. Make these confessions as unreliable as you like —the chance that our interests will be advanced in any instance of torture need only equal the chance of such occasioned by the dropping of a single bomb. What was the chance that the dropping of bomb number 117 on Kandahar would effect the demise of Al Qaeda? It had to be pretty slim. Enter Khalid Sheikh Mohammed: our most valuable capture in our war on terror. Here is a character who actually seems to have stepped out of a philosopher’s thought experiment. U.S. officials now believe that his was the hand that decapitated the Wall Street Journal reporter Daniel Pearl.

Whether or not this is true, his membership in Al Qaeda more or less rules out his “innocence” in any important sense, and his rank in the organization suggests that his knowledge of planned atrocities must be extensive. The bomb has been ticking ever since September 11th, 2001. Given the damage we were willing to cause to the bodies and minds of innocent children in Afghanistan and Iraq, our disavowal of torture in the case of Khalid Sheikh Mohammed seems perverse. If there is even one chance in a million that he

will tell us something under torture that will lead to the further dismantling of Al Qaeda, it seems that we should use every means at our disposal to get him talking. (In fact, The New York Times has reported that Khalid Sheikh Mohammed was tortured in a procedure known as “water-boarding,” despite our official disavowal of this practice.)

Which way should the balance swing? Assuming that we want to maintain a coherent ethical position on these matters, this appears to be a circumstance of forced choice: if we are willing to drop bombs, or even risk that rifle rounds might go astray, we should be willing to torture a certain class of criminal suspects and military prisoners; if we are unwilling to torture, we should be unwilling to wage modern war.