

The Relativity of Torture

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Operation Neptune Spear in 2011, in which the United States government (USG) hunted and killed Osama Bin Laden (OBL) [1], part of the massively scaled War on Terror, revealed some interesting public and intellectual conceptions regarding the morality of “torture.” From a certain position, it seems simple enough to condemn torture, but the difficulty arises in: (1) Defining what exactly that term entails, i.e. what are the limits of acceptable interrogation; (2) The distinctions between intentions and consequences in justifying torture, and whether there is any moral relevance to these distinctions; and (3) Maintaining this morality in extreme cases of personal interest.

The USG, when disinterested, i.e. cases for which it is not strategically involved, follows standard propaganda: that torture, following common sense notions and international definitions, is wrong [2]. This is considered deontological, i.e. *a priori* of context or intention or consequence. Similar in a way is the principle for those individuals who consider alcohol intake categorically immoral even if there is no harm to a consenting, autonomous self or others. Torture in such terms would seemingly be outside the nature of the beneficent USG, and by their implied (though not necessarily true) extension, the consenting citizens of the US. This is the standard orthodoxy, literally the “correct teaching.”

Since 2001 and the re-initiated War on Terror, and in particular the hunt for OBL or similar “high-value targets,” in has become quite clear however that this deontological statement concerning torture has dissolved given the apparent necessities of the now interested USG. Torture of “suspects,” to reveal actionable intelligence, or for vengeance in certain cases, had been occurring. This has been the apparent official motive by the USG in the former case (now explicitly but anemically admitted by President Obama) [3], and the *de facto* motive by individual rogue USG employees in the latter case—as once begrudgingly stated by USG apologists as the main occurrence for this moral violation.

In certain instances, torture took the form of standard psychological or physical methods (e.g. through excessive actions or deprivations), or more tailored subject-specific methods such as humiliation and religious persecution (e.g. antagonizing personal beliefs or desecrating sacred writings) [4]. Regardless of the torturer’s intention, whether so stated as highest virtue or unbridled vice, the consequences of torture upon the subjects can be fundamentally the same. There is no real moral difference despite distinct intentions, as the suspect does not necessarily feel better because of who is torturing him or why he is being tortured. The suspect is a moral patient tortured by a moral agent: he knows simply that he is tortured, and that he will remember past events and dread future ones.

The operative morality of a strong Leviathan, such as the USG, is an orthodox-based utilitarianism. Reflecting upon itself, the Leviathan articulates the following policies: (1) That its very nature is morally strong; (2) It can and will, without consent, alter the rights of populations under its interest; (3) It will not alter the rights of populations outside its interest—remaining disinterested and following standard propaganda; and (4) Alterations in-line with the Leviathan policies are *ipso facto* moral, those non-aligned are *ipso facto* immoral.

The USG, even in its embryogenesis, had considered itself, in John Winthrop’s phrase from 1630 “a city upon a hill,”—elevated and exceptional. While such a conception is not unique amongst the species of Leviathan generally, the USG implementation of its exceptionalism is consistently possible given its socio-economic and military hegemony. The USG publically remains and has remained against torture (or more generically, violations of rights) when strategically disinterested [5]. While rightly critical of torture in rival states (non-allied or non-clients), it is exceedingly difficult to apply those same principles to itself.

A seriously principled position would be to apply a universality of morality for all such equivalent cases (regardless of affiliation). In fact, one might be harsher upon one’s own moral standard—the thoughts, behaviors and activities for which one could have some control. If not necessarily to promote the commonly and calmly agreed upon “good” activities, then at least to not perform, or participate in, or allow the “bad” activities. In its disinterested moments and in official policy, such as stated by President Bush in 2003, there is agreement: “No people, no matter where they reside, should have to live in fear of their own government. Nowhere should the midnight knock foreshadow a nightmare of state-commissioned crime. The suffering of torture victims must end, and the United States calls on all governments to assume this great mission” [6]. But it seems that in practice, such rules are for a different city on a different hill.

The “good” is understandably quite difficult to grasp, but nonetheless, in a working representative democracy it would be the conception of the majority. The persistent concern among elites, from the Founding Fathers to more recent individuals such as the prominent journalist Walter Lippmann in the early 20th century, theorized that the “bewildered herd” was simply ill-equipped: ignorant, incompetent and provincial. As such, the herd could not be asked to seriously politically participate, but to rather spectate with ceremonial voting and allow for a “specialized class” of bureaucrats and attached experts to run the country.

In the real world, these concerns have been examined amongst the US public, through broad and continuous polling. The aggregate data suggests that contrary to elite theory, the polled public have generally coherent, consistent and sensible positions on security issues, as detailed in a large aggregate analysis by Page and Bouton [7]: (1) Combating terrorism through diplomacy first, but force if required; (2) Working with the international community towards these ends; (3) Trials of suspected terrorists in international courts; and (4) Scaling back military involvement and infra-structure generally or to

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a more neutral position in particular cases, such as regards the Israel-Palestinian conflict. These positions are quite at odds with the USG in many cases, which is in theory supposed to represent the official position of its constituents –an apparent “disconnect,” as these authors would suggest.

The orthodoxy regarding torture reveals three problems for powerful structures such as the USG, and is a paradigm of elite political thinking: (1) inconsistency regarding the belief and (more importantly) implementation of those beliefs into behaviors in interested cases; (2) the disconnect between USG belief and behavior and those of the public, from which it claims justification; (3) the failure to be (consistently) aware of these discordances, which itself facilitates future intellectual and thence behavioral malfunctions. When observed rationally and in a calm, disinterested moment, such activities would be termed “hypocrisy.” When such contradictions are brought forth, they are handled through typical methods: (1) the criticism is deemed false and charges must be withdrawn; (2) if they cannot be withdrawn, they are admitted as lapses in judgment or control; (3) if seen to be systematic, then admitted as a necessary evil; and (4) any exposure of these disputed methods and derived critique is deemed not simply anti-USG, but anti-US public, i.e. “anti-American,” by tight extension. Thus can understanding and responsibility be disavowed, displaced and dissolved.

In part (but only part), a successful way to transmit orthodoxy is through the use of propaganda terminology: to control public conceptions by distorting the words they use to think. Thus the Leviathan does not “invade” countries or commit “aggression,” but rather brings “pacification” through “peace-keeper” infantry and missiles. The USG has a Department of “Defense,” which used to be called the “Department of War” prior to 1948. The USG is on the defensive all over the world with more than 700 (known) military bases [8]. It is a clever terminological switch and is utilized by many militaries, even in Nazi Germany, wherein there existed the *Wehrmacht*, literally the “defense forces.” For torture we have become familiar with the euphemism “enhanced interrogation techniques” (EIT). It would seem that if it were plainly morally acceptable, it would just fall within the parameters of interrogation. Furthermore, these EITs were to take place outside of USG official territories. As has been observed, why do this if to not obviously circumvent laws which are there to prohibit torture?

More recently, there has been much press concerning the utilization of torture in *directly* leading to the location and then killing of OBL, as the most prominent example [9]. While torture may not have led to “direct” consequences in that sense, it was quite *directed*. It was officially not done by accident, or for vengeance, or as a pastime, but to gain, affirm or eliminate types of information, with the obvious point of leading to the capture or killing of OBL and other high-value targets. Interestingly, arguments were cleverly re-centered (creating public distraction) upon whether the torture was successful in the narrowed definition of “directly.” Intellectuals suggested that torture of suspects was not helpful in this regard at all; that it was libel to suggest such a thing—that was a *real* problem—the suggestion. Is this in any measure supposed to alleviate the principal concern?

USG officials and allied intellectuals were thus against and offended with the idea that torture was tactically useful: (1) there was no information obtained; (2) the information gained could not be trusted; or (3) there was information gained, but it did not lead to actionable intelligence. These points may have indeed been technically true, as supported by Republican Senator John McCain, himself a victim of torture, in a 2011 commentary [10], but secondary to the fundamental

moral question. If torture, as the intellectuals claimed, was useless why perform it in the first place and continue to do it. They conceived, permitted and activated torture as a tactic because they believed in its consequential power. Senator McCain in the same article discussed further that: (1) indeed torture or EIT had been occurring; (2) that it can and did lead to mis- or no information, for obvious psychological reasons; (3) it compromised US moral principles, including the US Constitution, regardless of intent or efficacy; and (4) could engender more reciprocal terrorist violence in the future. Many commentators would state that (4) has come to pass.

Interestingly, one might infer from the nuanced apologist arguments regarding effectiveness of torture that it might have been morally acceptable if it worked well, i.e. led to actionable intelligence. Whether it was right or wrong became quite irrelevant as the policies and scope of sanctioned torture could no longer be hidden, or plausibly denied, or even admitted to have occurred by rogue officials. The USG, with the help of intellectuals and the media had to re-frame torture concepts within nuanced utilitarian principles and linguistic distractions, as the events required, or admit a paradox to standard propaganda.

It must be noted that the official admission by President Obama [3] where “In the immediate aftermath of 9/11, we did some things that were wrong. We did a whole lot of things that were right, but *we tortured some folks*. We did things that were contrary to our values,” is both strangely casual and communalizing in nature. Casual in marginalizing the violation of our stated “values” and those of the tortured, and the extent of the torture program—for how long, to how many, by whose authority? Associatively, the “we” is supposed to represent the President, the USG, or the US public? Is this a public that is represented by the USG or are they the “bewildered herd?” The public is now responsible for this collective transgression (of which it was supposed to remain ignorant of)? Such a high-level admission is no small victory in political progress and government transparency, but much more is required from the government and the governed.

Historically, similar moral conceptions were articulated with regards to the Vietnam War by the USG and the intellectual class: that if and when the war was conceded as being “wrong”, it was on tactical grounds (they were not working and the USG was not “winning”). Again, we are then to infer that if the tactics had worked, the Vietnam War, in its totality would have had better moral standing. The other moral conception, of a minority view, which did grow somewhat towards the end of the War, was that the engagement was wrong on deontological principles.

Thus the relativity of torture, and such similar concepts, twisted as suits the needs of Leviathan power structure with respect to its interests. Morality is conceived as no longer deontologic or even as a consistent utilitarianism, but rather as the nature of the Leviathan itself. The high moral value of this power structure is a tautology. Fundamentally, our governance is by public consent. It is with such consent, by explicit vote, unawareness or disinterest, that such power structures are created and maintained and further that policies are implemented and enforced. These are policies implemented and enforced by individuals like ourselves unto others like ourselves. Government as a conception of ideals, and a collection of citizens, is an instrument for which we are responsible.

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