
Why Torture Shouldn't Be Used

Collateral Damage: Why Torture Is Never Permissible

Torture is irrefutably a violation of human rights. Modern torture techniques that have been employed by the United States government – including psychological torture, sensory deprivation, sleep deprivation, starvation and thirst, waterboarding, forced standing, and cold cells – are anathema to civilized society, can cause permanent psychological damage (e.g. PTSD), have been proven ineffectual, and should not be tolerated (Brooks and Hernawan). The ticking time bomb argument does not justify the use of torture, in that it is not rooted in reality, does not account for the collateral damage of societally condoning torture, and perpetuates violence in society.

The very circumstances constructed in the ticking time bomb argument are unlikely to occur and present a false dichotomy. In his article “Terrorism and Torture,” Fritz Allhoff argues that “torture can be justified, even if it entails rights violations, so long as we find ourselves in such a quandary that rights will end up being broken whether torture occurs or not” (110). This statement, in addition to the ticking time bomb argument itself, sets up a choice that is simply unrepresentative of the conditions that intelligence agents and military personnel actually face. “To accept this reasoning, one must be fooled by the faulty premise of the ‘ticking time bomb’ scenario and accept that torture works in the first place. A further leap in logic would deem that the supposed benefits of carving out an exception for torture would outweigh the immorality of the practice” (Carle). In truth torture often leads to false information, and has failed where alternate interrogation methods have succeeded. Four books have been written by government officials involved in “enhanced interrogation,” all of which decry the use of torture both from a moral standpoint and as an effective tool for acquiring intelligence. Conversely, the only people who have spoken out in favor of “enhanced interrogation techniques” have been either the individuals who made the policies, or the spokespeople for them (Panel Discussion). In sum, more evidence exists confirming the shortcomings of torture than of its abilities to obtain lifesaving information – and lifesaving information has been obtained from captives using methods other than torture. In this sense, the very concept of “torture or no torture” is a false dichotomy.

Analyzing the ticking time bomb scenario in terms of its logic and reasoning, regardless of practical shortcomings, is itself problematic. The argument essentially sets out to construct a situation in which torture might be considered permissible. It uses utilitarian/consequentialist reasoning to undermine a widely accepted moral rule. The argument, quite deliberately, deposits the individual between a rock and a hard place. Either we follow the moral rule that torture is a violation of human rights and should never be employed, or, we undertake the utilitarian prerogative and prevent a greater number of human rights violations by violating this rule. Neither of these options is morally desirable. But as philosopher Peter Singer notes, “What the individual ought to do, and what the best moral rule directs one to do, are not necessarily identical” (152). The zero-tolerance-for-torture moral rule is obviously preferable in most all situations, particularly “given the well-documented tendency of police and guards to abuse prisoners, and the low probability that torture will yield significant information” (Singer 152). However, in the highly improbable case of the ticking-time-bomb, it would seem more ethically

desirable to act in opposition of this rule.

This sort of ethical ambiguity is not unfamiliar to philosophical thought experiments. For example, a variation of the trolley problem asks if it is morally permissible to push a fat man in front of a runaway trolley in order to save the lives of five people who are standing farther down the track. It presents the same choice between violating one person's human rights in order to protect the rights of a greater number of people. Returning to the issue of practicality, I would like to raise this question: does this scenario offer appropriate guidance for establishing any form of public policy? Should we modify current laws to state: Whoever is guilty of murder in the second degree shall be imprisoned—unless the murder is committed by pushing a fat man off a bridge in order to save five people from a runaway trolley? This would seem absurd to most people. In truth, hypotheticals do a poor job of guiding lawmaking. Former CIA operative Glenn Carle comments on this, stating: “The beloved ‘ticking time bomb’ scenario has nothing to do with reality. The law ought to cover 99.999 percent of all plausible eventualities and affirm our principles. The law should not be tailored to cover a theoretical — erroneously imagined — scenario that has virtually no chance of happening.”

However, Allhoff presents a situation that is nearly identical to the fat man scenario, claiming that a police officer would be justified in shooting and killing a gangster in order to save five people whom the criminal planned to execute (109). This scenario both appeals more to intuition and relates more concretely to reality. So, what's the difference? Why does it seem reasonable to permit the murder of the gangster but not the murder of the fat man?

There are two important factors at play here, both of which can be related to the ticking time bomb argument. First, the gangster is already morally culpable (has malintent) whereas the fat man is presumably innocent. Secondly, in the case of the gangster, it is a government official who commits the murder, while the murderer in the case of the fat man is presumably a civilian. Thus, in order for the analogy between Allhoff's scenario and the ticking time bomb scenario to hold, the individual being tortured must be guilty (like the gangster) and the torturer must have some sort of government sanction to violate the man's rights (like the police officer).

However, nothing in the remainder of Allhoff's argument fails to make this applicable in the case of torture. Firstly, there is no practical way to know, absolutely, that the “terrorist” in the ticking time bomb scenario is not innocent. Establishing torture as an acceptable policy merely based on the precondition that rights will be violated whether or not torture occurs will inevitably result in the torture of innocent individuals. Furthermore, Allhoff blatantly condones the torture of innocents, given that it might minimize rights violations overall (110). Secondly, Allhoff fails to recognize the necessity or the potential danger of establishing officially sanctioned “torturers.” Disturbingly, such a force was made a reality in the War on Terror. Throughout the 20th century, U.S. Military and Intelligence training manuals have included information on psychologically researched, “modern” torture techniques. “The horrendous outcome of this program of cruelty is devastation on all sides” (Brooks and Hernawan).

Despite the fault in this analogy, Allhoff goes on to present a seemingly logical claim that torture is permissible if and only if “the use of torture aims at acquisition of information, the captive is reasonably thought to have the relevant information, the information corresponds to a significant imminent threat, and the information could likely lead to the prevention of the threat” (112). This list of conditions, however, is not only impossibly exhaustive (or as Carle claims, “has virtually no chance of happening”), but in addition, attempting to use it as a guide for legal measures

presents a wide array of pernicious sociopolitical consequences.

Even the most strictly limited form of the ticking time bomb argument, such as that presented by Allhoff, does not justify the legal permission of torture. Engaging in the practice of torture, under any circumstances, has far-reaching consequences. To permit torture, even in a limited way – perhaps using extremely demarcated “torture warrants” as proposed by law professor Alan Dershowitz – would still signal a departure from our society’s stance against human rights violations. For such a policy to be instituted transparently and democratically would require democratic (i.e. majority) acceptance of institutionalized torture. The ticking time bomb argument neglects to take into account the ramifications of such an occurrence.

Bufacchi and Arrigo note in their article: “Statements of military necessity and legalization of torture cannot remove [the] revulsion and stigmatization” attached to the actual act of inflicting torture (364). Making torture a part of the political institution does not make it any more acceptable from a human rights standpoint. Instead, torture damages the integrity of the institution that condones it as well as the individuals involved in its administration. “Any state that sets up torture interrogation units will lose its moral legitimacy, and therefore undermine the political obligation of its citizens” (Bufacchi and Arrigo 366). In this sense, the outright prohibition of torture can be seen as preferable from a consequentialist view. However, the collateral damage of permitting torture, regardless of the circumstances, does not stop at deterioration of the state.

Human rights should not have exceptions. If and when exceptions are granted, what was once a right becomes a privilege. Permitting the ticking time bomb argument to color community opinion and public policy will (and in the case of the war on terror, has) created a sociopolitical environment in which protection from torture is not truly a right, but rather a privilege. By making any form of torture permissible in any way, claims against it lose moral potency. In allowing an exception to what should be always upheld as a human right, humankind moves backwards in our fight against violence, cruelty, and maltreatment. “The U.S.’s use of torture has led the public to lose some sense of what is cruel and degrading.... In the United States, there has been a kind of degradation with our sense of common humanity — with our belief in the dignity of every human being” (Larry Siems, qtd. in Kneezle). This phenomenon holds true in any state in which blatant violations of human rights are legally permitted.

Additionally, torture has been used historically to target individuals who are not fully accepted members of society; marginalized groups such as foreigners, religious dissenters, and ethnic minorities (Einolf). Given the obvious difficulty that would come with regulating the administration of torture, as well as the historic tendency for officials to abuse such an ability, the toleration of torture presents a threat to human rights that goes beyond the obvious. While I am not suggesting that torture will at once become rampant in the U.S. and be used against minority groups, I do hope to call attention to the abhorrent history of torture and its ability to act as a divisive and degrading force in society.

Additionally, deeming such policies acceptable against “enemy” groups not only increases discordancy internationally, but domestically as well. The “Islamophobia” that has resulted from the War on Terror has perpetuated national bigotry against Muslims. Groups that are targeted by our government in the global theatre are in turn targeted domestically. Furthermore, the way the state treats hostile groups is often reflected by citizens domestically (Gerges). A national sanction of human rights violations for a particular situation (the ticking time bomb scenario) that

is deeply tied in the national psyche to a particular group (Muslims) is a recipe for disaster in terms of protecting rights to equal, unbiased treatment. On a more concrete note, using violence in the form of torture to combat terrorism, or any other form of hostility, can and has embittered victims and only incites a stronger and equally violent response from hostile groups (Bufacchi and Arrigo 368).

If we wish to uphold the rights and liberties that form the foundation of our democracy and society, we cannot – under any circumstances – condone practices that we would otherwise scorn and deem barbaric. In banal terms: we can't talk peace and have a gun. Torture is contrary to what our goals ought to be concerning human rights and international relations. The ticking time bomb scenario does little in the way of making a realistic, morally defensible, or even inductively cogent claim, and it should not be used as a tool for reasoning – and even more importantly, for legislating – on the subject of torture.

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