

An Economist's View: *Torture as a means of stopping terrorism*

The use of torture is considered by many as an effective way to obtain information that could save countless lives, but it clearly raises many ethical issues. The practice of torture in the context of the war on terrorism is discussed, along with the possibility of issuing "torture warrants" as a way on insuring more humane views.

The use of torture in the war on terrorism presses many ethical issues. Torture is and has been used as a means of coercion to obtain information from prisoners over centuries. There are some who feel that torture is necessary in order to prevent further death and destruction. There are others, however, who believe torturing people for any reason is a violation of human rights and is never permissible. In this paper I will discuss the ethical arguments for and against using torture in the war against terror from an economist's perspective.

Those who believe torture is necessary think that it is better to inflict pain on one person than to risk the lives of hundreds or thousands of people. Given the threat that terrorists pose to innocent lives, are governments not obligated to do whatever they can to protect their citizens? The first question that comes to mind with this [utilitarian](#) argument is whether the person being tortured is guilty or actually knows the answers the torturer is looking for. There have been many cases where persons were locked up and tortured, even for long periods of time, but no links to terrorism were ever found. For the purposes of this paper, I am going to make the brave assumption that a person subject to torture is guilty and knows the answers. I am also going to make the assumption that the terrorists' preferences count. For this discussion, it is also necessary to assume that torture works. If torture didn't produce results, then it would obviously only have negative externalities associated with it.

Senator John McCain is one who believes that torture is not effective. He bases this on his experience in Vietnam, where he was shot down and spent over five years as a prisoner of war. To those who think that we should be cruel to our enemies because our enemies are cruel to us, he has said: "Our values are different from those of our enemies...we do not abuse human rights...and to those who say that we should use any technique to obtain intelligence, torture doesn't work."¹ There are many recorded cases of torture working such as the foiling of a 1995 plot. This plot was to crash eleven commercial aircrafts simultaneously over the Pacific and to fly a Cessna filled with explosives into the CIA's headquarters. The Philippines police arrested and tortured a suspect over a sixty-seven day period, breaking most of his ribs until he came out with the information that foiled the plot.² It is precisely because torture sometimes works that countries around the world continue to use it.

Another pertinent issue in evaluating the ethics of torture is determining what constitutes torture. I am going to use the basic [definition](#) proposed in the 1984 UN Convention Against Torture. In a nutshell, it defines it as any severe act, physical or

¹ "Torture Doesn't Work". [Times Editorial](#) July, 29 2005.

² Bellamy, Alex J. "No Pain, No Gain." [International Affairs](#). Jan. 2006 p. 136

mental, in which pain and suffering are inflicted on a person as a means of intimidation or extraction of information. 

While making the above assumptions that everyone who is tortured knows what is being demanded, and using that definition of torture, a utilitarian would argue that torturing one person for the sake of thousands is a good outcome. Utilitarian's argue that the best decision is the one with the greatest ratio of positive benefits to negative benefits.

 There would be negative externalities associated with the torture to the terrorists and the terrorist's associates, and positive externalities in the form of the avoided harm to noncombatants. An important decision for utilitarian thinkers is deciding whose utility gets counted. Economists count those who are members of society, meaning those whose pleasure and pain should matter to us. Since terrorism affects the whole world, I feel that everybody's preferences should count, terrorists and noncombatants. Even if we count a terrorist's preferences and the preferences of his fellow terrorists, the benefits to the people's lives saved by any information gathered would lead to a positive outcome.  This is on the assumption that there are fewer terrorists than people saved and that each has equal preferences. The current Attorney General, Alberto Gonzales, believes in this outcome and has said, "the nature of the new war [on terrorism] places a high premium on other factors, such as the ability to act quickly to obtain information from captured terrorists and their sponsors in order to avoid further atrocities against American civilians... This new paradigm renders obsolete Geneva's strict limitations on questioning enemy prisoners."³ 

A problem to this outcome arises because we are assuming that the terrorists pose a direct threat. For example, a bomb has been planted and may go off at any time. In this scenario, the tortured suspect has a measure of control over a direct threat to "non-combatants".⁴ The extraction of information from the suspect is necessary in order to remove the threat to the people. What is not considered is a scenario in which the terrorist is being tortured in order to find the location of, for example, an arms cache. The extraction of information in this example, regarding the location of the weapons cache, is expedient but not necessary to the prevention of a specific threat⁵. Most of the time, interrogations are used for the prevention of possible future harm, and not for any specific single issue. This makes the issue tricky. Should we torture to prevent harm that is not imminent or direct? The utilitarian would say yes as long as there are more total net benefits than costs.  This means that as long as the gain to people from knowing that there will be no threat is greater than the loss to the terrorists for being tortured and knowing of the torture, then the utilitarian would agree to go ahead with it.

If an enemy can be tortured to provide life-saving information, then we must admit that our own soldiers if captured could also be tortured in order to save the lives of our enemies. Here is an argument that may lead a utilitarian to think that the best outcome involves a prohibition of torture; the costs of the torture of our own soldiers would have to be weighed against the benefits of the torture of our enemies.

There is also a question of what methods of torture should be permitted. U.S. Defense Secretary Donald Rumsfeld approved 24 out of 35 proposed interrogation techniques for use at Guantanamo Bay. They were "aimed at significantly increasing the 

³ Lewis, Anthony. "Making Torture Legal". New York Review. July, 2004 p.4

⁴ Bellamy, Alex J. "No Pain, No Gain." International Affairs. Jan. 2006 p. 122

⁵ Bellamy, Alex J. "No Pain, No Gain." International Affairs. Jan. 2006 p. 126

fear level in a detainee and attacking or insulting the ego of a detainee.”⁶ Some of the techniques Rumsfeld approved were ones that purposefully caused fear and that did not leave lasting damage, such as beating the soles of the feet, the use of dogs, and techniques involving near drowning or suffocation.

The [Landau Commission](#) was set up in Israel in 1987 to examine the methods used by the Israeli security service to interrogate terrorist suspects.⁷ The Commission did not specify what techniques could be used, but it did however outline three important limits that should not be exceeded in order to protect the rights of its citizens. It said that torture must not cause severe harm to the suspect’s honor or deprive him of human dignity, that the seriousness of the techniques used must be weighed against the potential threat that the terrorist poses, and finally, that the means of torture should be limited to techniques designed not to cause lasting harm. It is apparent from this that some methods of torture are condoned, as long as they do not violate basic human rights  or leave lasting damage.

What if the terrorist doesn’t give up the information demanded through torture, or gives false information? In this case no civilians could possibly be saved and there will be of course negative effects for the terrorists. A utilitarian would argue that this is a bad outcome for there are no possible benefits and many costs. How will you know if no information was disclosed as a result of the torture? There is no way to check this, but there is presumably an efficient level of torture. One of the things that the Landau Commission discussed was that if the situation is serious beyond a certain level, then torture will be an option, if it is not serious then torture should not be used. The severity of the interrogation should be weighed against the potential threat of terrorism.

There are many reasons why torture is considered wrong. Not only is torture generally prohibited by law, but there is also a broad consensus that holds it to be morally wrong. David Sussman, a philosopher from Princeton, has said “since the Enlightenment there has been a broad and confident consensus that torture is uniquely barbaric and inhuman.”⁸ Sussman has three moral arguments as to why torture is wrong. The first is that torture is wrong because “its ultimate goal is to force its victim into colluding against himself.” The second is that torture “involves the use of violence against defenseless people and therefore violates the principle of non-combatant immunity.” And the last is that torture is wrong because, “it violates “fundamental principles of humanity”.

I feel the solution to the efficient use of torture might come from a change in laws to permit authorities to issue torture warrants. There are values that societies feel need to be preserved. The most important of these are the safety and security of the nation’s citizens, the preservation of individual human rights, and democratic openness and accountability⁹. Having torture warrants would create an openness about the use of torture. This would benefit the society because there would be a greater watch and supervision on what really is going on and this would minimize problems. Also the public’s awareness could help strike an efficient balance of values. Law enforcement agencies could apply for torture warrants in specific cases, and this would have to go

⁶ Tom Farer. “US abuse of Iraqi detainees at Abu Ghraib Prison.” *American Journal of International Law*. 98:3, 2004, pp. 592-3

⁷ [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.33.Add.2.Rev.1.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.33.Add.2.Rev.1.En?OpenDocument)

⁸ Sussman, David. “What’s Wrong With Torture.” *Philosophy and Public Affairs*. 2005 p.2

⁹ Bellamy, Alex J. “No Pain, No Gain.” *International Affairs*. Jan. 2006 p. 135

through the judicial system.¹ The system could decide who could or could not be tortured for whatever reason and what methods of torture could be used based on weighing the severity of the potential threat. The courts could decide with a benefits and costs analysis on who is harmed and who could be saved by the potential information. This would allow vital information to be extracted that could help prevent threats from terrorists. Bringing torture into the open could also make it more humane and reduce the negative externalities associated with it.

