

# Torture: **Never – or hardly ever?**

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# Torture: Never – or hardly ever?

## **Statement A:**

“Torture can never be justified in any circumstances”

## **Statement B:**

“Torture can be justified in exceptional circumstances”

***You decide!***

# **The case against torture**

**AB**

We need to progress human rights not limit them!

December 2005 Law Lord Ruling:

***'Torture is not acceptable, this is the bedrock of moral principle in this country. For centuries the common law has set its face against torture... no civilised society condones its use .***

(Lord Brown, 2005)

[http://www.youtube.com/watch?v=8oX8\\_bIZGyE](http://www.youtube.com/watch?v=8oX8_bIZGyE)

# Torture defined

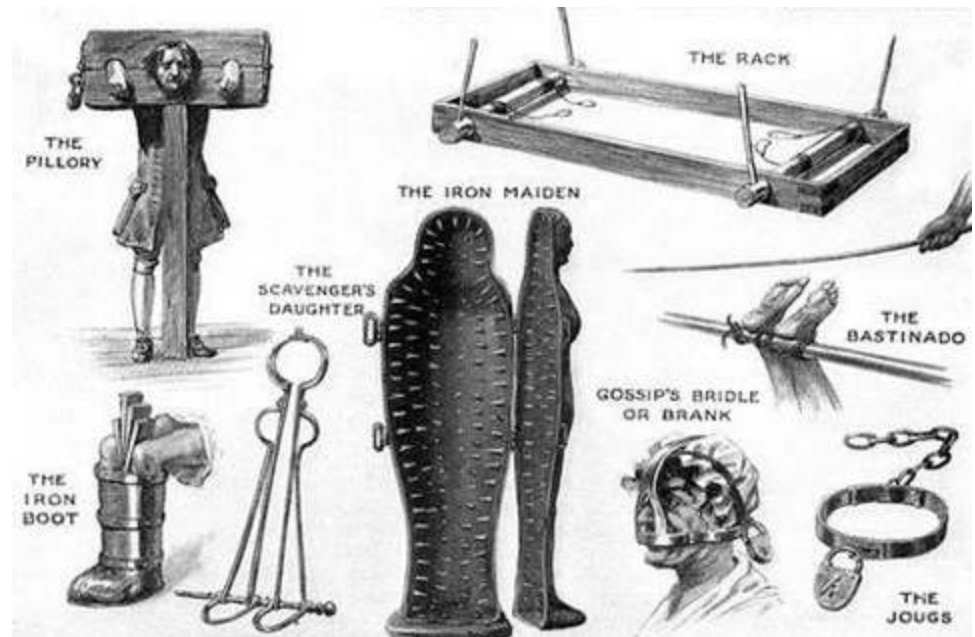
“any act by which **severe pain** or **suffering**, whether **physical** or **mental**, is **intentionally inflicted** on a person for such purposes as obtaining from him or a third person **information** or a **confession**, punishing him for an act he or a third person has committed or is suspected of having committed, or **intimidating or coercing** him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person **acting in an official capacity**”.

UN Convention against torture

# History's Story

Ramses II (1279-1212 BC) made extensive use of torture to gather information

Similar tortures are in use and have been used for centuries... but never proven effective.



# Burning the Witches

**Only two Men were needed to call you a witch...**





Fig. 341.—The Water Torture.—Fac-simile of a Woodcut in J. Dambouïdre's "Praxis Rerum Criminalium:" in 4to, Antwerp, 1556.



**severe** pain or suffering, whether physical or mental

**intentionally** inflicted on a person

obtaining from him or a third person

**information** or a **confession**

**punishing** him for an act he or a third person has committed

at the instigation of or with the consent or acquiescence

public official or other person **acting in an official capacity.**



## MoD concern over torture claims

The Ministry of Defence says it will press Iraq to investigate claims of torture by security forces after a report that UK aid was being misused.

Sunday, 3 July 2005,

## 'Lip-stitching' police suspended

Seven police officers in Pakistan have been suspended in an inquiry into allegations that officers stitched up the lips of an abusive prisoner.

Sunday, 26 June, 2005



The international pressure group Human Rights Watch (HRW) has accused police in Nepal of torturing children.. For the entertainment of their captors.

19 November 2008

It is no secret that the US military operates detention centres around the world for the **interrogation** of terror suspects.

## What is water-boarding?

*Water-boarding is a harsh interrogation method that simulates drowning and near death; origins traced to the Spanish Inquisition.*

**Subject strapped to board with head slightly lower than feet**

**Cloth\* held tightly over subject's face; water poured onto cloth, over face**

*\*CIA uses Celophane*

**INFORMATION**



**Breathing becomes difficult; gag reflex stimulated; subject feels close to drowning, death**

**Subject begs for interrogation to stop**

*Source: The Nation, ABC News, McClatchy Washington Bureau  
Graphic: Lee Rubeng, Judy Teible*



**INHUMANE AND DEGRADING**

# **Torture Prohibited**

**European Convention on Human Rights – Article 3**

**“No one shall be subjected to torture or to inhuman or degrading treatment or punishment”.**

**Torture is a subcategory of what the U.N. convention on torture calls ‘cruel, inhuman, or degrading treatment’.**

# MORALLY WRONG TO USE TORTURE TO OBTAIN INFORMATION

*“It is morally wrong to use information obtained in this way. Its reliability must inevitably be undermined by the means by which it is obtained.”*

*“It is axiomatic that those under physical distress will often say what they believe the torturers want to hear.”*

Sir Menzies Campbell MP  
(former Liberal Democrat Party Leader, 2004)

**Information from tortured  
persons may also be unreliable**

**Remember miscarriages of  
justice!**

# Torture as counter-productive

Torture mobilises the opposition-strengthens the cause!

Algiers and Vietnam- the deployment of inhumane violence merely served to deepen resistance and drive most civilians into the arms of the enemy

(McMaster, 2004, p.12)

**Torture corrodes the society that allows it!**

*Torture...seen as a form of cancer that inexorably led to the degeneration of the liberal democratic state...its core values and fundamental respect for human rights and dignity*

(McMaster, 2004, p.9)

# Doing torture.....what about the logistical problems?

- Where do you get the torturers from?
  - How do you train people to torture?
- What method of torture?
  - Psychological impact of the torturers (insomnia, nightmares, hallucinations, depression etc)?
- Torturers sub culture?

# Outsourcing!?

- *'We don't kick the shit out of them. We send them to other countries and they can kick the shit out of them'* (Unnamed CIA Agent).
- *'If you want a serious interrogation, you send a prisoner to Jordan. If you want them tortured, you send them to Syria. If you want someone to disappear- never to see them again- you send them to Egypt'* (Bob Baer, CIA Agent).

# **Torture and the loss of the high ground!**

The war on terror =Defending a way of life

1) The rule of law

2) Human rights (international conventions)

**Acceptance of torture undermines claim to moral superiority**

*'We would risk allowing ourselves to be reduced to the moral low ground occupied by the very terrorists we are fighting. That would be a victory for terrorism'* (Chris Mullen MP-Former Foreign Office Minister, 2005).

**Indeed, what we do know is that this war has cost us:**

**3000 dead**

**20000 wounded**

**\$250billion**

**(Keefe, 2009)**

**In any terms this is a terrorists dream...**

# The Horror of Reality: The Guardian 16/11/10

Prisoners to be paid for the silence

Justice Secretary Kenneth Clarke states that it is not in the national or public interest to have the methods used on '*suspected*' terrorists called into question in the high court



Payments must be made... '*to protect the security services' methods from scrutiny*'

Today's actions will clear the way for an independent inquiry into British involvement in torture and the degree to which MI6 knowingly took information extracted by torture by the Americans

# The Seat of Liars

**September 2006: “We don’t use torture”**

**George. W. Bush (US President)**

**May 2009: “Enhanced Interrogation (torture)  
keeps our country safe”**

**Dick Chaney (former US Vice President)**

**BBC News, November 2010:**

**“Yes I authorised the use of torture... Damn right. I’d do it again... Sure”**

**George. W. Bush (former US President)**



**The Christopher Hutchings experience:**

**<http://www.youtube.com/watch?v=4LPubUCJv58>**

# Torture in any other terms

**Joef Fritzl**

**Most evil man in Austria**

**Imprisonment of daughter for 24 years**

**Fathered 7 children**

**Kept family in the cellar in rooms 6' square and under 6' high**

# A Short Note of Caution

- My learned friend will tell you that we've always used torture as if this is acceptable...
- Domestic Violence was not seen as an issue for law
- Physical chastising of children was seen a family issue and therefore not a legal concern...
- Is it acceptable?

**NO PAIN NO GAIN!**

The case for torture

NP

# Outline

- Information/intelligence gathering only: EIT
- Rights conflict?
- Are there ANY circumstances when torture is justified?
- Will torture produce the truth?
- Covertly endorsed by liberal democracies

*Morally wrong?*  
**What about the conflict of rights?**

**ARTICLE 2 (European Convention on Human Rights)**

1. Everyone's right to life shall be protected by law.

2. No one shall be deprived of his life intentionally.

3. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than **absolutely necessary**:

**(a) in defence of any person from unlawful violence;**

**Self defence!!!! Defence of another!**

# Are there ANY circumstances when it may be justified?

## The 'ticking bomb' question

A known suspected terrorist is arrested;

Overwhelming evidence links him to an IED (CHEMICAL);

On interview: *“attacking the great Satan of liberal democracy”*

Transport system/rush hour.

During interview smirks triumphantly.

**RUSH HOUR IN TWO HOURS**

**Would it be justifiable to use torture in such circumstances?**

Are there ANY circumstances when it  
may be justified?

**The hostage question**

A child kidnapped

Child needs regular medication to stay alive

kidnapper arrested at the point of transfer

Child cannot be found and the kidnapper remains silent

**Would it be justifiable to use torture in such circumstances?**





DECISION POINTS



GEORGE W.  
BUSH

© EPA

*British lives were saved  
by the use of information  
obtained from terrorist  
suspects by  
"waterboarding",  
according to former US  
President George W  
Bush*

(BBC, 2010)

<http://today.msnbc.msn.com/id/39976132>

*.....you cannot ignore it [torture] if the price of ignoring it is 3000 people dead (Jack Straw, 2005).*

Moral right of the innocent to live pre-empts the moral right of the guilty

*‘Our reflex rejection of torture needs to be replaced by recognition that it can be a moral means of saving lives’ (Bagaric, 2005).*

**Exceptional circumstances require exceptional measures!**

# Will torture produce the truth?

- *“It is axiomatic that those under physical distress will often say what they believe the torturers want to hear”* (Menzie Campbell, 2004)
- Confession/ NOT intelligence gathering
- Information easily checked

# Will torture produce the truth?

“Our experience in Afghanistan showed that the harsher the methods we used — *though they never contravened the [Geneva] Conventions, let alone crossed over into torture* — **the better the information we got and the sooner we got it**”.

US Army Intelligence Officer in Afghanistan, reflecting on efforts to get information from captured Al Qaeda and Taleban fighters (in McCready 2007: 384)

# Contributions to the academic debate

The Case for Torture Warrants – Prof Alan Dershowitz (2002)

The Case for Torture – Patrick Buchanan (2003)

The Case for Torture – Prof Michael Levin (2005)

The case for Torture – Prof Mirko Bagaric (2005)

The case for torture- Dr Uwe Steinhoff (2006)

## The Case for Torture Warrants Alan Dershowitz (2002)

### Key Points:-

- Several acts of terrorism prevented
- Security officials placed in an impossible dilemma (defence of necessity)
- Warrants/ prevent unauthorised torture

## Criminal law Act 1967

S.3 (1) A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

### Key Points:-

- Moral law/ human rights law
- Law enforcement permits the killing of a suspect / why is torture worse?
- War on terrorism / recoil at inflicting pain on one person?

## The Case for Torture Michael Levin (2005)

### Key Points:-

- Torture is barbaric/ mass killing more so
- Torture should never be used as punishment
- Torture pre-emptive strike
- Institutional paralysis/ the greater threat

## A Case for Torture Mirko Bagaric (2005)

### Key Points:-

- Torture moral means of saving lives
- Torture is akin self-defence
- Morally indecent to prefer the interests of the wrongdoer

## Mirko Bagaric (2005) CONTINUED.....

- Slippery slopes?

Floodgates already open  
Amnesty– 132 countries including  
the USA, France and Japan

- Dehumanising society?

“A society that favours the interests of  
wrongdoers over the innocent is in  
serious need of ethical re-wiring”

- Cannot be sure of the outcome?

We must depend on our best estimation  
of the circumstances at the time (self-  
defence)

The case for torture  
Uwe Steinhoff (2006)

• *“People kill people, soldiers kill people, policemen kill people, doctors kill people...sometimes these killings are justified ...so if killing is sometimes justified, torture too must sometimes be justified”*

(Journal of Applied Philosophy Vol 3, No3, pp337)

• **Torture is not worse than killing**

*“In some circumstances the use of violence to save innocent lives is effective. It won’t do simply to assume that this will never happen, that persons under coercion always lie, that information can be gained in a timely way by other means or from other sources. Such assumptions inadvertently lead directly to the sort of lawless behaviour we have regrettably seen” (May 27, 2008).*



Professor Philip Bobbit  
Former Presidential Advisor

# Covert or not so covert endorsement by liberal democracies



The conservative radio host, Scott Hennen, asked Mr Cheney if he agreed that "a dunk in water is a no-brainer" if it would unearth information of pending attacks and save lives.



Mr Cheney replied: "Well, it's a no-brainer for me" (October 2006)

It happens anyway and may be covertly endorsed by liberal democracies



*Does UK turn a blind eye to torture?* BBC  
25/5/05

*Torture flights: what No 10 knew and tried to cover up* (Guardian, 2006)

*U.S. torture flights DID land on British soil, says Foreign Secretary David*

(Daily Mail, 2008)

Where will we get our torturers from????!!!!!!

## MILGRAM EXPERIMENT (1961)

*•For how long will someone continue to give shocks to another person if they are told to do so, even if they thought they could be seriously hurt?”*

•Authority and obedience

**All 40 subjects obeyed up to 300 volts**

<http://www.experiment-resources.com/stanley-milgram-experiment.html>

# Concluding comments.....

- Torture is useful in a world as dangerous as this one
- Torture is permissible when it is **ONLY MEANS**, due to the **immediacy of the situation**, to save the life of an innocent person (Bagaric, 2005)
- Relatively small level of harm/ saving the innocent (Bagaric, 2005).
  - **Lost lives hurt a lot more than bent principles (Bagaric, 2005)**
- Panorama (License to torture) July-09

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