Torture, Inhumanity, and Life Incoherence

Abstract:	The paper argues that torture can never be justified by appeal to the sanctity of innocent life its supporters invoke to justify it, precisely because it is destructive of that which makes life sacred and valuable, at the individual level, for both torturer and torture victim, and at the level of the social institutions within which good lives may be led. In sum, to torture and be tortured is the ultimate degradation and destruction of that which makes human life uniquely valuable. That which makes it uniquely valuable is not mere biological functioning, but the capacity to care for principles, people, creatures, and futures beyond the limits of our own skins. That capacity is what one might call—without positing the existence of any metaphysical or transcendent spiritual substance—the soul of human beings, those capacities which, if lost, causes the loss of our humanity. Torture, for both victim and perpetrator, is soul-destroying. Any society that actively cultivates torturers and employs information obtained by their work has abandoned any claim to adhering to a value system rooted in the recognition of the sanctity of human life.

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Key words: torture; life value; inhumanity

The release of the United States Senate's *Committee Study of the Central Intelligence Agency's Detention and Interrogation Program* in December, 2014 has reignited the debate on the role and efficacy of torture in the War on Terror. The report itself concludes that little of political or military value was obtained through the atrocious treatment of the prisoners it chronicles. After quoting then CIA Director Hayden's 2007 testimony that the "enhanced interrogation" program was "the most successful program being conducted by American intelligence today," the report

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provides the actual evidence: "The suggestion that all CIA detainees provided information that resulted in intelligence reports is not supported by CIA records."[1] Unsurprisingly, the empirical details of the treatment of the prisoners and its conclusions about its inefficacy has not changed the mind of its political supporters. The most vocal has been former Vice-President Dick Cheney, who dismissed the conclusions of the report, stating bluntly that "I have no problem as long as we achieve our objective. And our objective is to get the guys who did 9/11 and it is to avoid another attack on the United States."[2] The fact that there has been no demonstrated causal link between the brutal interrogation methods, the tracking and killing of Osama bin Laden, and the prevention of future attacks on America is irrelevant, from the perspective of those who think like Cheney. The fact that there is a temporal correlation between the program, the subsequent killing of bin Laden, and the failure of any terrorist group to mount a large scale attack on the United States suffices to justify him and his allies in their position.

The temptation amongst those who both respect empirical evidence and abhor torture is to respond to Cheney and his ilk with more facts to support the conclusion that torture does not work. While understandable, the approach is futile, because Cheney and other supporters of torture understand the facts as well as anyone.[3] Their support for the CIA has nothing to do with

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[1] *Committee Study of the Central Intelligence Agency's Detention and Interrogation Program,* p.217. http://www.intelligence.senate.gov/study2014/sscistudy2.pdf (accessed, December 14th, 2014).

[2] Conor Friedersdorf, "Cheney Defends the Torture of Innocents," *The Atlantic,* December 15th, 2014. http://www.theatlantic.com/politics/archive/2014/12/dick-cheney-defends-the-torture-innocents/383741/ (Accessed, December 17th, 2014).

[3] My aim in this paper is not to criticise the Bush-Cheney administration as such, but the practice of torture and anyone who supports it. If criticism, like charity, begins at home, (and it should) then I should point out that the current Canadian government was complicit with aspects of the CIA's torture regime, and maintains to this day that they would use information gleaned from torture. In 2012, Canadian Justice Minister Vic Toews re-ignited the debate in Canada over whether democratic governments should ever use torture to prevent terrorist attacks when he disclosed that the Royal Canadian Mounted Police and the Canada Border Services Agency

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whether torturing terror suspects worked or did not work in this particular case, but with the principle that in politics, no means are off limits to attaining ends that have been deemed legitimate. That which opponents deserve is not determined by their humanity, but by the depth of their opposition to those ends.   The more determined the opponent, the less human they appear. Once the opponent has been dehumanized, there are no moral limits to their treatment. If the goal of critics of the *real politik* defence of torture is to help prevent its recurrence in the future, they must argue on altogether different grounds, principled and not empirical. If torture is wrong, it must be wrong *simplicter,* and not because it does not work.

However, the argument that torture is universally illegitimate sounds too politically naive to be accepted in the "real world." It is easy to imagine scenarios so heinous that torturing a suspect to extract the information that could prevent it would seem not only justified, but *morally necessary.* So-called 'ticking bomb' arguments are paradigm examples. As I will argue, these arguments, like Cheney's support of the CIA, do not prove anything about the legitimacy of torture, but only that their authors have presupposed, for political reasons, the legitimacy of torture *in the pursuit of ends of which they approve*.   Nevertheless, because they appeal so strongly to peoples' normal affirmation of the value of life, they are highly effective red herrings which, if allowed into the argument, have the power to completely distract critics from the real problem of torture and the real reason why it is, I will argue, universally illegitimate.

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would be allowed to use information obtained under torture if its use could protect "the life and property" of Canadians. (Canadian Press, "RCMP, Border Agents can use Torture-Tainted Information,"   http://www.cbc.ca/news/canada/story/2012/08/24/rcmp-border-agency-information-torture.html (Accessed, Sept 18th, 2014)   Toews was just one more example of Western leaders—always quick to pontificate about human rights when denouncing their enemies, coming to "accept torture as a normal course of social and political events." (Michael Behrens, "Taking Liberties: Canada's Growing Torture Infrastructure," *The Bullet, No. 700.* (http://www.socialistproject.ca/bullet/700.php) (Accessed, September 18th, 2014).

My claim will be that torture can never be justified by appeal to the sanctity of innocent life its supporters invoke to justify it, precisely because it is destructive of that which makes life sacred and valuable, at the individual level, for both torturer and torture victim, and at the level of the social institutions within which good lives may be led. In sum, to torture and be tortured is the ultimate degradation and destruction of that which makes human life uniquely valuable. That which makes it uniquely valuable is not mere biological functioning, but the capacity to care for principles, people, creatures, and futures beyond the limits of our own skins. That capacity is what one might call—without positing the existence of any metaphysical or transcendent spiritual substance—the soul of human beings, those capacities which, if lost, causes the loss of our humanity. Torture, for both victim and perpetrator, is soul-destroying. Any society that actively cultivates torturers and employs information obtained by their work has abandoned any claim to adhering to a value system rooted in the recognition of the sanctity of life. Value systems that support and enable torture cease to be value systems worth preserving.

My argument will be developed in three steps. In the first, I will briefly consider the conceptual structure of ticking bomb thought experiments. My aim here will be to expose the way in which they are not thought experiments at all, but question begging red herrings and illegitimate appeals to emotions designed to justify people in their "gut feeling" that torture is legitimate in the case of dire and immediate threats to innocent life. Once this gut feeling has been justified by the hypothetical example, empirical evidence from popular support for the War on Terror shows that people have little problem moving on to support the real thing. Yet, support for the real thing is not what it purports to be- morally serious valuation of the sanctity of human life—but the opposite- embrace of the most brutal destruction of human life-value. Thus, the second step is to show that torture always destroys more life-value than it preserves. If

this argument is sound, then it follows that a policy of torture is always life-incoherent, in the sense that, over the long run, it will degrade the capacity of people to value the lives of culturally different others, encourage and exacerbate revenge cycles, and thus contribute to global conditions that are more violent, more murderous, and more plagued by the deaths of innocents than if the longer and more patient road of political understanding and redress of colonial crimes is chosen.

I. Ticking Bomb Arguments: Dangerous Red Herrings

There have been a number of versions of the "ticking bomb" thought experiment over the centuries, but all have two crucial elements in common.[4] As regards their content, they all assume a crudely utilitarian position that in all circumstances it is morally legitimate for a third party to decide to sacrifice some life for the sake of saving a greater number of lives. Second, as regards their argumentative form, they all refine, to an arbitrary level of precision, the scope of information available to the third party who makes the decision as to whose life 9or health) will be sacrificed. There are no ambiguities or lacunae in the third party's information, in other words. Success is always guaranteed by the parameters of the argument. The contrived nature of the thought-experiment abstracts from all the real-world contingencies (is it the right suspect, will he give up the needed information in time, and so on) that make torture a hard choice. As

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[4] The first iteration of what would become the 'ticking bomb,' thought experiment may be found in Jeremy Bentham.See W.L. Twining and P.E. Twinning, "Bentham on Torture," *Northern Ireland Law Quarterly,* Vol. 24, No. 3, 1973, pp. 305-356.   Arguably the most famous of contemporary versions is found in Alan Dershowitz, *Why Terrorism Works*, (New Haven: Yale University Press), 2002, pp. 131-164. Other important versions can be found in Henry Shue, "Torture," *Philosophy and Public Affairs,"* 7, 1978, pp. 124-43, and Michael Walzer, "Political Action: The Problem of Dirty Hands," *Philosophy and Public Affairs,* Vol. 2, No.2, 1973, pp. 160-180.

Christopher Tindale argues, "people approach the 'ticking bomb' examples ... with the retrospective benefit of knowing how many people have been saved as a consequence of torturing a detainee."[5]   Given the arbitrary precision of the information available, and the fact that, as Tindale points out, success is built into the design of the experiment, it becomes easy to move people to the conclusion that in such cases as these, the prohibition against torture may be overridden.   Even such strong critics of torture as Henry Shue were once persuaded by such reasoning. Shue concluded in his 1978 paper, "Torture," that "it cannot be denied that there are imaginable cases in which the harm that could be prevented by a rare instance of ... torture would be so enormous as to outweigh the cruelty of torture itself."[6] Unfortunately, that which makes the thought experiment so obviously convincing to so many people is exactly what makes it both fallacious and a morally unsound guide to practice.

The first problem is generated by the arbitrary precision built into the experiment itself, a precision which, as I noted, is meant to reassure the person making the decision that torture will succeed in preventing the deaths of innocent people. Not only does it guarantee success, but the success is of such overwhelmingly high life-value- hundreds, thousands, perhaps even more saved, and the cost *apparently* so low- the torture of only one individual—that it seems impossible to disagree with the conclusion that torturing the (purportedly) guilty individual is morally justified.   The problem is that under real world conditions the arbitrary levels of precision, the *imaginary* conditions, in Shue's words, can never be duplicated.   Buffacchi and Arrigo correctly argue that "drawing conclusions from thought experiments is not as easy as it may seem. The ticking bomb argument is so hyperbolical to have more affinities with science

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[5] Christopher Tindale, "Tragic Choices: Re-Affirming Absolutes in the Torture Debate," *International Journal of Applied Philosophy,* Vol. 19, No. 2, 2005, p. 216.
[6] Henry Shue, Torture, *op. cit.,* p. 132.

fiction than science fact."[7]   These fictional, imaginary qualities, the extreme care taken in constructing the scenario so as to rule out failure and to ignore the need for the availability of trained torturers (who would be required if success were to be guaranteed—amateurs might be too harsh and cause death or too soft and not extract the information) lead me to the conclusion that the ticking bomb thought experiments are question begging.   They presuppose the conclusion (torture is the right choice) that they are supposed to prove.

If these arguments are in fact question begging in the way that I suggest, then they are not in fact thought-*experiments*, since in a real experiment the hypothesis may be confirmed or disconfirmed.   But in these examples it is already certain what the experimenter wants us to conclude.   The conclusion- torture is justified if these conditions are met- is presupposed by thepremises which abstract from all the realities that make torture a hard choice.   Extreme care is taken to construct the examples in such a pure, qualified, and so impossibly different from real life terms that the reader feels comfortable in admitting that, 'yes, in *that* case I would agree that torture is justified.' Shue, in a 2009 self-criticism of his 1978 position grasps this problem clearly.   "Most of what is most disturbing about torture is missing ... The result of all these omissions is that the ... [experiments] would tell us nothing at all about standard cases of torture."[8]   Yet, these omissions are essential to the experiments, for it is precisely they that help people overcome their initial revulsion to the practice.   Since the omission of all the unpleasant

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[7] Vittorio Bufacchi and Jean Maria Arrigo, "Torture, Terrorism, and the State: A Refutation of the Ticking Bomb Argument," *Journal of Applied Philosophy,* Vol. 23, No. 3, 2006, p. 358-359. For a related criticism of the formal problems of the ticking bomb argument see Nathan Stout, "Ticking Bombs and Moral Luck: An Analysis of Ticking Bomb Methodologies," *Human Rights Review,* Vol. 12, 2011, pp. 487-504.   On the real world need to train torturers as a precondition of any possible success in finding the 'ticking bomb, see Jessica Wolfendale, "Training Torturers: A Critique of the "Ticking Bomb" Argument," *Social Theory and Practice,* Vol. 32, No. 2, 2006, pp. 269-287.

[8] Henry Shue, "Making Exceptions, *Journal of Applied Philosophy,* Vol. 26, No. 3, 2009, p. 309.

realities both defines the experiment and explains its success in getting people to agree to the

legitimacy of torture, such that if detailed examples of what really must be done in torture, what

the victim must endure and what the torturer must be capable of inflicting, were substituted for

the imaginary premises people might not so readily assent, these "experiments' are actually red

herrings meant to distract otherwise morally competent people from the realties (described in

shuddering but not melodramatic detail in the Senate report) of the infrastructure torture requires,

the psychology of blind indifference to suffering its practitioners require, and the ultimate depths

of degradation to which it subjects its victims.

The fallacious nature of the argument is not its most serious problem. The ticking bomb

thought experiment, in the context of the War on Terror, is not an idle philosophical game to

play in Ethics class with undergraduate students. It is part and parcel (as Alan Dershowitz's use

of it, for example, makes clear) of a complex strategy meant to justify actual or recommended

state policy.   Thus, the most significant problem of the thought experiment is that it helps

overcome public opposition to torture as state policy. It is not only its question begging nature

that helps it accomplish this goal, but also the way in which it appeals, implicitly perhaps, to fear

of and hatred for a faceless enemy who" we" purportedly did nothing whatsoever to provoke. As

the critics of the ticking bomb experiment I discussed above argued, the examples abstract from

the possibility of failure, the savage reality of torture, and the need to train torturers. They also

abstract from the complex causal nexus of historical forces that links the societies under threat to

the enemies that threaten them. Instead of a nuanced, serious historical analysis of the context in

which the bomb has been planted, the motivations of the bomber, what has happened to the

bomber in his or her past that has led to him or her making this decisions, we are presented with

a vacuum—there is a bomb that will kill some of us unless this faceless, history-less 'them,' is

tortured. The experiment encourages us, subtly, to identify the lost life as people we know, at least as fellow citizens, and contrast that identification with a faceless other who for some unknown and unspecified reason wants to harm us. Dershowitz's use of ticking bomb arguments is paradigmatic in this regard since he openly argues that we should never inquire into the causes of terrorism, for fear of legitimating it by such inquiry. "We must commit ourselves," he says, "*never to try to understand or eliminate its alleged root causes.*"[9] I will return, in the third section, to explicate the disastrous, life-incoherent consequences that acting upon this advice has had, is having, and will continue to have into the future. At this point I want only to examine how the ticking bomb experiment's abstraction from historical and political interconnection between target society and terrorist is another reason to reject the veracity of its conclusion.

Whether intended or not, by abstracting from the historical reality linking victims and perpetrators, the ticking bomb experiments fail to offer us *moral reasons* to torture. Instead, they work by stirring up visceral hatred against an irrational enemy so diabolical as to want to maim and kill *us* for no reason at all. Abstraction from empirical complexity is supposed to enable the emergence of clear moral reasons. In reality, however, the disposition it produces is blind hatred towards the perpetrator, who of course "gets" what he or she deserves. Bob Brecher, in his rigorous dismantling of the cogency of the ticking bomb argument, concludes that it "fails to distinguish between individuals' possible visceral responses and any sound basis of public policy."[10] It is precisely this surreptitious appeal to emotion that makes the ticking bomb example such a disastrous guide to practice. People will say and actually do things in the heat of the moment which, upon reflection, turn out to have terrible consequences, not only for the object of their wrath, but for themselves and the world they inhabit. It is those consequences for

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[9] Dershowitz, *op. cit.,* p. 24.
[10] Bob Brecher, *Torture and the Ticking Bomb*, (London: Blackwell), p. 21.

torture victims, for torturers, and for contemporary and future society that are the real problems at issue in this critique of the ticking bomb argument. Hence, it is to the profound moral and physical damage to human life, individual and social, that the argument must now turn.

II. Torture and the Destruction of Life-Value

I argued above that in the context of the War on Terror, ticking bomb arguments are not thought experiments but inducements for people to support torture as an accepted political practice. Evidence suggests that the American public has become more open to torture as a legitimate way of dealing with captured terrorist suspects. A poll taken after the attempted bombing in 2010 of a Delta flight from Amsterdam to Detroit revealed that a majority of Americans polled supported torturing the suspect in order to extract a confession, *even though he had already confessed.* As Joseph Margulies comments on the poll, "the numbers are alarming but not surprising. Other recent polls have consistently shown substantial support for torture and considerable scepticism about the use of civilian courts to prosecute terror suspects, and this despite the empirical proof: after eight years there is no evidence that information secured by torture could not have been secured by lawful means and despite the hysteria, we have successfully prosecuted terrorists in civilian courts with no complications."[11] If evidence suggests that the public can be protected from terrorism by standard legal means at least as well as through the use of torture, what explains the public's willingness to allow authorities to employ it? And, more importantly, if appeal to evidence about the inefficacy of torture does not change people's minds about its legitimacy (in times of crisis) what will change their minds?

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[11] Joseph Margulies, "September 11th and the Downward Arc of American Thought, http://www.zombieamerica.tumblr.com/post/370482031/september-11-and-the-downward-arc-of-american-thought (accessed, September 26th, 2012).

Driving the support for torture that Margulies notes is not only fear (many people fear crime, but do not advocate the torture of criminals) but, also, as Brecher suggests, visceral hatred of the enemy. If it is the case that fear of terror plus visceral hatred of the enemy underlines the support for torture of terrorist suspects, and if empirical evidence that torture does not work does not seem to change peoples' support for it, it follows that changing people's minds will require that opponents of torture find some way to alleviate people's fears and overcome their visceral hatreds. I want to address these two issues simultaneously. The main claim of the following section is that overcoming people's visceral fears and hatreds requires people to think about and understand why torture is the worst form of violation to which any human being can be subjected. Torture is so horrific that it requires the complete moral deformation of a society that practices it, (as John McCain, for example, pointed out in response to the release of the Senate report), fuelling the very hatreds that underlie the political movements that spawn terrorists.[12] Thus, torture is not only a gross moral violation of the humanity of enemies, it is self-contradictory, encouraging the very threats its supporters claim it will reduce. In the remainder of this section I will explicate my moral critique of torture. In the third and concluding section I will turn my attention to its self-undermining, life-incoherent results.

Alongside of ticking bomb thought experiments has grown up a critical literature devoted to re-affirming the absolute prohibition against torture. This literature explores, on the one hand, just what it is about torture that makes it a moral abomination and , on the other hand, exposes the lengths to which a society that decides to use torture as a matter of policy must go in order to create the institutional infrastructure necessary to deploy it as a practice.   The absolute

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[12] See Mccain's statement for the floor of the United States Senate. http://www.mccain.senate.gov/public/index.cfm/2014/12/floor-statement-by-sen-mccain-on-senate-intelligence-committee-report-on-cia-interrogation-methods (Accessed, January 3rd, 2015).

immorality of torture is a function of the synthesis of these two aspects of it: the supreme degradation to which it subjects its victims and practitioners, and the undermining of principles— the transparent and non-violent rule of law, respect for the sanctity of living personhood and agency, that the supporters of liberal-democratic capitalist society regularly cite as the moral-political reasons why this society is worth defending from external threats. In what follows I will assume that these are essential values of any society that respects the intrinsic life-value of human beings, but contend, against those who would employ torture in their defence, that they are not worth defending *at any cost whatsoever.* Torture as systematic public policy destroys, rather than preserves, anything life-valuable within the people who suffer it, the people who practice it, and the social institutions and value system that organize and legitimate it. Inorder to understand this conclusion, it is essential to reflect more deeply upon what is wrong with torture and what a society would need to do, at the institutional level, to really practice it.

It might be objected to this claim that it stems from an abstract moralistic perspective, the bleeding heart sensibility f the drawing room that wants to build public policy on the basis of naive empathy with cold hearted killers who deserve whatever they get. While I see no problem with that disposition derided as 'bleeding heart,' my argument does not depend upon empathy for the torture suspect, but rigorous thinking through of the life-costs the raising of torture to legitimate public policy entails. Thus my position does not derive from soft-hearted concern for torture victims but a hard-headed rational reflection upon what the real aim and implications of torture are, in contrast to the sanitized and benign picture of legalized torture that Dershowitz, for example, presents. For Dershowitz, torture has a defined and localized aim—extraction of a crucial piece of information by the application of safe but painful methods of interrogation—and

its implications can likewise be localized.[13]   The assumption is that torture amounts to the deliberate infliction of pain by government authorities in order to extract information whose social impacts cease once the actual physical event has concluded.   While torture certainly involves the deliberate infliction of physical and/or psychological pain, it is not the infliction of pain that explains why torture is a unique moral abomination.

To understand that which makes it a unique abomination, let us reflect on the goal of torture in the ticking bomb case.   Its goal is to extract information that the suspect would be unwilling to share unless coerced.   In other words, the goal is to 'break' the person, to force him or her to betray his or her principles, his or her relationships, his or her comrades, and his or her political (and perhaps cultural or religious) identity.   As Elaine Sacrry concludes from her study of the testimony of torturers and torture victims, torture uses intense pain "to destroy a person's self and world, a destruction expressed spatially as either the contraction of the universe down to the immediate vicinity of the body, or as the body swelling to the entire universe."[14]   In other words, all that is left of the person is their sheer material being, their capacity to suffer.   That which is lost is the capacities that define them specifically as human beings—to hold political principles, to form relationships, to maintain interpersonal commitments, and sustain a moral-political identity.   Whatever the content of those relationships commitments, etc, they are the aspects of our selves which we hold sacred, which we would regard 'selling out' as shameful in the highest degree, as a repudiation of the person we worked to make ourselves to be, as someone who can appear dignified in the presence of others.   To be forced somehow to sell out these principles and relationships is generally a cause of lasting shame, because destructive of a

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[13] Dershowitz, *op. cit.,* pp. 149-153.
[14] Elaine Scarry, *The Body in Pain: the Making and Unmaking of the World,* (Oxford: Oxford University Press), 1985, p.35.

crucial element of the moral core of human being- the capacity to value and abide by our commitments to other people and a collective cause. The aim of torture, even the 'mild' interrogational torture supported by Dershowitz, explicitly intends to and can succeed only in the case that it forces the person under torture to violate these commitments, to profane that which they hold sacred. The moral wrongness of torture must be understood not as the physical pain it causes in the abstract, but the way in which it uses pain—physical and psychological-- to humiliate the victim and destroy his or her constitutive relationships, values, and commitments. As David Luban argues, that which makes torture uniquely evil is that it leaves "the victim in a state of abject humiliation. The victim counts as nothing, the torturer as everything."[15] Given the intrinsic link between torture and the destruction of the constitutive commitments of the victim, I claim that the essential moral violence of torture is directed towards the 'soul' of the victim, not his or her body. The wrongness of torture is thus that it is soul-destroying.

By the term "soul" I do not refer to any spiritual substance, some metaphysical essence that survives the death of the body. Rather, I mean the core moral commitments of a person, those commitments that they hold sacred. By "sacred" I do not intend any specifically religious attitude, but the object of an absolute valuation." By "absolute valuation" I mean a relationship of care between a human being and the object held sacred which no inducement of any kind- monetary, sexual, etc., could count as sufficient reason to violate. This relationship of sacred care or absolute valuation is that which torture attacks. Attack on the capacity to hold certain principles or relations sacred is not an accidental feature of torture, it is essential to it. If torture is the only way to extract information that would never be given willingly in any less dire circumstances, then it is by definition an attack on the sacred, an attempt to destroy by physical

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[15] David Luban, "Human Dignity, Humiliation, and Torture," *Kennedy Institute of Ethics Journal,* Vol. 19, No 3, 2009, p. 224.

and psychological violence the capacity of the victim to honour and uphold those commitments constitutive of his or her moral personhood. As David Sussman's analysis of the wrongness of torture reveals, torture turns the victim's sense of dignity upside down—in order to save themselves they are willing to abandon every commitment and *turn themselves* into a mere tool of the torturer. "What is distinctive about torture," he concludes, "is that it does not just traduce the value such dignity represents by treating its subject as mere means. Rather torture, even in the "best" case, involves a deliberate perversion of that very value, turning our dignity against itself in a way that must be especially offensive to any morality that fundamentally honors it."[16] Whatever policy makers might think the aim of torture is, its real implication is the destruction of that which the victim holds sacred, and thus the life-value of the person in the process.

At this point an objection might be raised against my argument in so far as it assumes a moral parallel between the sacred commitments of the terrorist and the sacred commitments of people who are not terrorists. The entire point of the ticking bomb example is, of course, to mark out some cases as exceptional, where 'exceptional' means 'supplying reason to override moral concern for the constitutive values and commitments of people.' The objection assumes that some beliefs are so odious, some plans so life-destructive, that the person who attempts to enact them destroys their own soul in the process, thus releasing others-- those who would seek to prevent the atrocity from happening—to do whatever it takes to extract the information required to disrupt the plan. In response I do not want to repeat the arguments raised in the first section about the idealized and ideological nature of ticking bomb arguments. Instead I want to focus strictly on the moral problems raised by the objection.

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[16] David Sussman, What's Wrong With Torture," *Philosophy and Public Affairs,* Vo. 33, No. 1, 2005, p. 19.

The objection argues essentially that in cases where the torture victim is a terrorist there can be no question of torture destroying his or her soul, because he or she has already destroyed it by his or her commitment to terrorist methods, which are irreducibly evil. To this objection, I have three responses. The first is that if the wrong of terrorism is supposed to be that it is a political practice that seeks to attain its ends by targeting and destroying innocent life, then almost all politics that degenerates into violence is terroristic, and thus no one who directs or engages in such practices retains any sacred commitments in the sense defined above. Clearly, however, a majority of people in every country of the world make exceptions in the case of their own leaders and soldiers in times of war. Most Americans do not regard their President as soulless and inhuman for launching drone strikes, even though those strikes regularly and predictably destroy innocent human life. It does not follow from this claim that either terrorism or aerial bombardment is legitimate and morally sound. My point is to reveal the inconsistency and partiality to one's own case that underlies the objection to my argument.

The second response to the objection is that people can be wrong about which principles to hold sacred, without their holding those principles sacred being itself wrong. That is, holding wrong principles does not absolutely destroy the life-value of the person who holds those constitutive commitments. A variation of this response is that people's being wrong about the scope of legitimate political means of realizing the values they hold to be sacred does not necessarily undermine their life-value as human beings. That is, choosing terroristic violence as a means of realizing one's values does not negate the humanity of the terrorist, i.e., it might make him or her a legitimate target of political *struggle,* but it does not make him or her the legitimate target of torture.

Human life is unique in that it alone, of all the life forms we know of, is capable of acting on principles that individuals recognise as definitive of a common good for which they are willing to sacrifice their individual life. This willingness to set aside one's own life when a dire situation calls for it is counted amongst the most noble of all virtues. This willingness to sacrifice oneself for a common good depends upon the capacity to hold some principles sacred; i.e., to not see everything as a means to one's own private ends. If we universalise the principle that underlies torture, we arrive at the following conclusion: nothing is to count as sacred save what superior violent force decides. Any principles that contradict the principles that the established powers decide may alone be held sacred will be attacked by means that include the destruction, through torture, of the very capacity of the victim to ever hold such principles again. Anyone who defends torture must seriously ask themselves if they are willing to inhabit a society in which this universal principle holds sway.

Responding in this way to the objection *in no way entails agreement with the principles or the practices of any particular political group.* Thus, the third response to the objection insists that that all political positions are held *for reasons* that rational opponents must try to understand and *respond to with better arguments.* The danger that some attacks will occur which might possibly have been prevented had a society adopted an anything goes rules of engagement cannot be denied. Commitment to a politics of struggle that rules out torture in all cases and the patient construction of mutual understanding has costs. To this reality one must respond with resignation: not all atrocities can be prevented, but there are ways of trying to prevent atrocities that lead to the destruction of the principles underlying morally valuable societies. As Henry Shue argues, "every position has morally relevant costs: some planes may crash because one did not find out about bombs one could have found out about had one been willing to torture enough

people. But my position is not: one would ideally never torture if an absolute ban on torture had no costs. My position is: one should never torture in spite of the fact that refraining might have high costs."[17] Societies worth living in must recognize moral limits to legitimate means of self-protection.

A willingness to employ torture is a transgression of those limits. When a society chooses to destroy the souls of the people who would oppose it rather than try to understand the causes of the opposition and respond to those causes, either with reasons why the opposition is mistaken or with change of policy towards the opponent, it cedes the rule of law to the rule of violent fury. Even if one wants to reject the argument that torture is an absolute moral violation of the humanity of the victim, even if one wants to maintain, despite the responses to the objection above, that the terrorist abdicates his or her humanity by his or her adoption of violence as a tactic, there remains this further reason why torture must be rejected by societies that justify themselves by the appeal to the principle of free self-development and self-realization: torture cannot be practiced save systematically. If torture cannot be practiced save systematically, it cannot be practiced unless torturers are systematically trained and produced.

One may not care at all about the fate of terrorist suspects. However, if one is committed to defending democratic societies, then such a person must also concern him or herself with the conditions for their maintenance and development. Having to train the torturers required to effectively extract information in the ticking bomb scenario is a direct threat to those conditions. As Jessica Wolfendale demonstrates through detailed empirical examination of what torture training really involves, torturers become incapable of the critical, self-reflective thought required of citizens of a genuinely democratic, self-governing society. "By encouraging torturers

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[17] Shue, "Making Exceptions," *op. cit.,* p. 308.

not to concern themselves with the moral justifications for the use of torture, the combination of Special Forces training and the discourse of professionalism instil dispositions of unreflective obedience." [18] Torture training is not restricted in its democracy-destroying effects to the institution of the military. Rather, the training of torturers requires the allied efforts of the military, the medical, the political, and the legal establishments. The ultimate consequence is that "torture subverts the rule of law in a liberal democracy and erodes other ideals supported by the rule of law." [19] In sum, just as torture destroys the soul of the torture victim, and is intended to destroy the soul of the torture victim, so similarly it requires the production of people with, in the words of Henry Shue, torturers with "crippled souls." [20] This destruction of the humanity of the torturer has predictable spill over effects in the form of brutalization of social relations across the society that trains torturers. Richard Matthews concludes that "if the torture trainee becomes disposed to inflict intimate suffering on an individual, as torture requires, this disposition is not going to be constrained solely by some imagined policy restrictions but must spill over into other practices and contexts as well." [21] When the reality of torture is considered together with the moral objections against it, the conclusion becomes inescapable: torture is a life-incoherent response to the threat of terrorist violence that societies governed by a value-system worth protecting must always reject. To an explanation and defence of this general conclusion I now turn.

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[18] Jessica Wolfendale, "Training Torturers: A Critique of the 'Ticking Bomb' Argument," *Social Theory and Practice,* Vol. 32, No.2, 2006, p. 283.

[19] Vittorio Bufacchi and Jean Maria Arrigo, "Torture, Terrorism, and the State: A Refutation of the Ticking Bomb Argument," *Journal of Applied Philosophy,* Vol. 23, No. 3, 2006, p. 365. See also Christopher Tindale, "Tragic Choices: RE-Affirming Absolutes in the Torture Debate," *International Journal of Applied Philosophy,* Vol. 19, No. 2, 2005, pp. 216-218.

[20] Henry Shue, "Making Exceptions, *op. cit.,* p. 313.

[21] Richard Matthews, *The Absolute Violation: Why Torture Must be Prohibited,* (Montreal: McGill-Queen's University Press), 2008, p. 119.

III. Torture, Life-Incoherence, and Societies Worth Protecting

The value purportedly served by the decision to torture terrorist suspects is life-protection. As I argued above, however, the cost of using torture to protect some life is the destruction of the capacity for human living of the torture victim and the torturer.   Those costs extend beyond the individual torture victims and torturers to include the perversion of the life-purposes of fundamental social institutions. Instead of curing the sick, medicine is turned to the task of keeping the torture victim alive long enough to divulge what he knows; instead of ensuring the governance of human life by common principles, law ensures the rule of violence over those deemed enemies of the state. Wherever a social institution becomes complicit with torture, it loses the legitimacy conferred upon it by its service to satisfying the life-requirements of the human beings who live within them. Societies deserve the allegiance of their members to the extent that they unify their citizens in projects and practices that protect and enhance that which makes everyone's life valuable. Societies are in need of transformation to the extent that they divide people and set them violently at odds with each other, undermining the life-capacities of some for the sake of preserving the privileges of others.

The decision on the part of a democratic society to torture its enemies is most unlikely to solve the deepest political problem it faces- the fact that it has enemies willing to use terroristic method to damage it. Any society that dehumanizes and tortures its enemies is most likely to be viewed by the societies from which those enemies derive as inhuman and the legitimate target of whatever sort of violent assault any opponent can devise. In other words, the decision to torture will most likely feed a revenge cycle, and revenge cycles, as Chirot and MacCauley demonstrate, are at the root of some of the most life-destructive conflicts of the post-World War Two era. A

cross-cultural moral principle, they demonstrate, is the principle of reciprocity. "the most

primitive [i.e., basic and universal] sense of fairness is the reciprocity principle. If someone

helps ... you, then you owe that person help ... Similarly, if someone ... hurts you ... you owe

them punishment." [22] By the principle of reciprocity, if someone tortures one of your fellows,

you will feel that it is legitimate to seek the destruction of the torturers and those who trained and

supported them. Reciprocally, those attacked in revenge for their policy of torture will feel that

it is legitimate to further assault those who sponsored the attacks that were a response to torture,

and so on.

If it is true: a) that torture destroys the souls of torture victims and torturers, b) destroys

the life-protective function of major social institutions, and c) typically generates revenge cycles

that destroy human lives that would otherwise have been preserved, it seems impossible to

conclude that the policy of torturing terrorist suspects can ever coherently serve its stated

justification- the preservation and protection of life. Stated more simply, if the arguments are

sections one and two and the socio-psychological research of Chirot and MacCauley are true,

then torture is always a *life-incoherent* policy. The term 'life-incoherence" derives from the

work of John McMurtry, and in particular his efforts to expand the traditional criteria of

scientific truth beyond the formal principles of consistency with evidence and coherence with the

rules of inductive and deductive inference. In addition to these formal criteria there must be

added, McMurtry argues, the substantive criterion of coherence with the integrity of natural and

social life-support systems. "Theories and practises are thus obliged to face a *life-coherence*

principle of validity—that is, whether their positions are consistent with or blind to the most

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[22]Daniel Chirot and Clark MacCauley, *Why Not Kill Them All?,* Princeton University Press: Princeton, NJ) 2006, p.53.

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universal requirements of human life itself." [23] In the case of public policy and the moral reasoning that underlies it, the life-coherence principle would rule out as sound, legitimate, and good any policy which directly destroys life, degrades its living conditions, reduces its quality, or systematically damages the institutions upon which its cultivation *as human* depends, when there are available alternatives that do not destroy, degrade, or dehumanize it.

By way of review and summation, my position is that torture as consciously chosen public policy is life-incoherent because it necessarily destroys, degrades, and dehumanizes life in at least 6 interrelated ways. 1) torture brutalises and destroys the life-value of the victim, 2) it also brutalises and destroys the life-value of the torturer, 3) the existence of torturers presupposes that resources have been invested in their training, which means that scarce resources have been wasted in creating more violent societies, 4) by targeting demonized others from different cultures torture creates the conditions for revenge cycles, and thus increases the likelihood of more violence globally, 5) it contributes to public ignorance about the causes of terrorism and the real history of Western involvement in other societies, thus making society more rather than less ignorant, narrowing the exercise of the human capacity for rational understanding of the interrelations between different human societies, and 6) it thus impedes the development of new local, national, and international political movements capable of exercising intelligence and collective power for overcoming the structural problems that engender terrorism in the first place.

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[23] John McMutry, "Human Rights versus Corporate Rights: Life Value, the Civil Commons and Social Justice," *Studies in Social Justice Volume 5,* Issue 1, 2011, p. 24. See also, John McMurtry, "Reclaiming Rationality and Scientific Method: The Life-Coherence Principle as Global System Imperative," *Philosophy and World Problems: Encyclopaedia of Life-Support Systems,* (EOLSS Publishers: Oxford), 2011, pp. 183-184.

The assumption is often made that torture is a hard choice but necessary given the changed international situation after 9/11. Perhaps, however, the really hard choice, the morally heroic choice, is *not* to torture, ever. In human affairs, unlike a mechanically determined physical system, there are always alternatives between which socially self-conscious agents must choose. Those choices are always made according to a value system, and it is the value system by which public policy choices are made that determines the goodness and thus the legitimacy of the society in question. Protecting that which is valuable about liberal-democratic societies- and perhaps more importantly—preserving a capacity for critical self-reflection and openness to the need for self-transformation-- means rejecting the principle that *any and all means* are legitimate forms of self-protection. This conclusion is not my own, but rather that of the Supreme Court of Israel, which, in weighing the matter of the legitimacy of torture, concluded: "This is the destiny of democracy," the decision concludes, "that not all means are open to it."[24]

People do not just wake up one day and decide to fly a plane into a building for no reason whatsoever. Terrorists justify their actions to themselves and their victims. It is not necessary to accept their justifications, but it is rationally necessary to study them and evaluate them and thus at least to acknowledge that terrorism is a conscious response to claimed injustice. The morality or otherwise of torturing a terrorist therefore can never be determined by a thought-experiment that abstracts from the historical interconnection between the society the terrorist comes from and the society that the terrorist attacks. The point is not to say that everyone is guilty and therefore the victims of terrorism got what they deserved. Nobody anywhere ever deserves to be killed as a sacrificial victim of other people's political agendas. The point, rather, is to say that

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[24] Quoted in Dershowitz, *op. cit.,* p. 284. Unfortunately, Israeli security forces have not always been held to consistent account for violating the laws against torture. See the discussion in Brecher, *op. cit.,* p. 60.

both morality and reason demand a complex historical understanding of what has been done to other societies in the name of our society's purported security. Without understanding the role our own history has played in the constitution of the present historico-political conjuncture, we will never be able to advance the conditions in which life-coherent policies can be adopted. As Brecher's concludes, "the answer to the tragic scenario [depicted in ticking bomb thought experiments] is that we need to do whatever we can to ensure that we never get anywhere near it. The proposal to legalise interrogational torture, in addition to all its other demerits, stands in the way of our doing exactly that."[25]

Thus, for all the reasons cited, the practice of torture against terrorist suspects is life-incoherent. By abstracting from the historical conditions in which terrorist practices have been developed torture must fail systematically in its goal: the prevention of terrorist atrocity. If history proves anything, it is that people resist when they feel that they have been oppressed. When people resist oppression they are in effect demanding a hearing from those they accuse of being their oppressors. Unless such a hearing is granted, i.e., unless those accused of being oppressors stop to reflect upon the evidence marshalled against them in support of the claim, and, if found solid, change their policies and institutions, we can be quite certain that no matter what extraordinary lengths we go to, terrorism will be with us long into the future. The life-coherent alternative is the on-going historical effort to ensure that the goods of life are secured to each and all, in our own societies and globally, comprehensively and universally.

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[25] Brecher, *op. cit.,* p. 39.