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The Benefit and Cost Analysis of Torturing Prisoners

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Abstract: The purpose of this paper is to present *qualitatively* a concise synthesis of the possible benefits and costs of torturing prisoners. Most countries deny, yet apparently do, torture.

Qualitatively, the benefits of torture are easy to summarize: torture attempts to extract information from prisoners about locations, plans and capabilities of enemy forces. Quantifying such information is relatively easy. Evaluating accuracy of information obtained from torture is extremely difficult. A second benefit of torture is deterrence of potential enemies from hostile action. Evaluating such benefit is extremely difficult and unreliable; successful deterrence requires that the torture be made public, at least in summary form, which may be illegal or unpopular. Most costs of torture are easy to calculate. Difficult to evaluate is the alleged demoralization of societies that torture.

This paper concludes with comments about the inadequacies of US security agencies in translating information about potential enemy actions into useful political action.

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1. Introduction

This paper starts with the relatively easy task of a succinct qualitative statement of the benefits and costs of torturing prisoners. It then attempts the much more difficult task of summarizing what information is known or could be obtained about quantitative magnitudes. It concludes with a brief statement of how US senior government officials appear to rely on information available in crises.

Benefit/Cost analysis is a highly developed set of techniques that economists employ to ascertain the desirability of government actions and programs [1]. It is the only systematic way to ascertain the desirability of such programs. Nevertheless, I have been unable to discover any such quantitative analysis of torture. At a minimum, I hope this paper provides a systematic *qualitative* framework for such analysis [2].

I will not burden the paper with an extensive discussion of the definitions of torture, although many recent publications have provided careful definitions. See, for example, Clark (2004), Gawande (2009), Gill (2004), Goldsmith (2007), Hersh (2004), Ivins and Dubose (2004), Mayer (2008), Napolitano (2007), Rejali (2007) and Sands (2008), etc.. One reason for concern with definitions is intellectual. Prisoners are typically and justifiably interrogated to extract

[1] For an excellent recent survey of benefit/cost analysis, see Imbens and Wooldridge (2009).

[2] By far the most comprehensive analysis of torture is Rejali (2007). I have learned much from it.

valuable information to further the goals of the interrogator's group. Some methods of interrogation are intentionally harsh in order to extract more or more accurate information and the border between harsh or enhanced (to use the favored US government term) interrogation and torture is opaque. A second reason is legal. The US is signatory to the Geneva and related international conventions regarding torture and government officials may risk domestic and/or foreign prosecution for violations. Domestically, in the US and other countries, confessions gained from torture are not admissible in criminal proceedings. For the purpose of this paper, torture is the intentional infliction of severe pain on prisoners. A waggish definition is any acts (kind, intensity, duration) that senior government officials would not permit to be imposed on themselves.

A special comment is needed about 'clean' torture, actions that leave no lasting marks on victims. Examples include solitary confinement (see Gawande, 2009); water-boarding, electro-torture, sleep deprivation and prolonged placement in uncomfortable positions (see Rejali, 2007). Clean torture has increased in recent years, apparently motivated by increasing hostility of courts to testimony obtained by torture and increasing effectiveness of international groups, such as Amnesty International and Human Rights Watch, in publishing evidence of torture. A final observation in this section is that nearly all governments deny, and nearly all apparently do, torture (see Rejali, 2007). The reasons for denial are the subject for a different author. One reason certainly is legal. Others may be guilt or fear of public disapproval. However, to the extent that a purpose is deterrence, one would guess that tough-minded government officials might at least wish to drop hints about the severe consequences of intrusion on the jurisdiction in question. That is a possible motivation for the extensive discussion of permissible methods of enhanced interrogation by the US national government culminating in spring 2009.

2. Benefits and Costs of Torture

2.1 Benefits of Torture

The most obvious benefit of torture is the *extraction* from the victims of information that is valuable to the torturing organization. Locations, plans and capabilities of enemy forces or personnel are the primary objects. No competent authority doubts that widely available methods of torture can extract from victims any statements that the victims believe the torturers want to hear. Enemy forces captured, killed or disrupted and/or friendly forces protected, and enemy property destroyed or friendly property protected are the ultimate benefits. The values of lives or property can be and have been estimated by conventional Benefit/Cost analysis.

Estimating the reliability of such information is difficult. The prisoner is motivated to lie if he may be released or be. able to escape before the lie is detected. The reliability of such information is normally time-dependent and the victim is motivated to lie since he realizes that he is of value to the torturer only if he is kept alive and able to answer. The victim may not know the correct answers to questions or may know only approximate answers. If the victim knows the time-dependence of the desired information, he may be motivated to provide answers that are increasingly good approximations to the correct information until time has run out. Victims are sometimes offered freedom in exchange for correct information, but such offers lack credibility. Both torturer and victim know that the prisoner is worthless once the information has been extracted and that the victim is likely to report objectionable behavior or to offer evidence of torture to authorities, press or civil rights organizations if he is freed. Thus, torturing organizations frequently kill or imprison victims indefinitely once the wanted information has been obtained, regardless of prior agreements.

Because of the unreliability of information from torture, corroboration is usually sought from other prisoners (using the well known prisoners' dilemma game - theoretic analysis) or from paid or unpaid informants, from friendly sources or from electronic or other data sources. Creating reliable information, while it is valuable from more or less reliable sources, is a major difficulty for security organizations and for benefit analysis. Some comments are offered in the concluding section of this paper.

The second benefit of torture is *deterrence.* If adversaries know or suspect that torture may result from capture, they may be deterred from hostile actions. Deterrence requires that the policy of torture be made public, at least to the point of publicly stated hints.

It is difficult to ascertain whether the prospect of torture has deterrence benefits. In warfare, international conventions make torture of prisoners illegal. It seems doubtful whether such conventions have significant deterrence. 'Take no prisoners' has been a common policy in wars, including World War II (Ferguson, 2006), Vietnam (Sheehan, 1988), and presumably many other wars. Presumably, 'take no prisoners' is as great a deterrent as the threat of torture, but there appears to be no evidence of a deterrence effect. Of course, conscripted soldiers are wards of their governments, so any deterrence effects of the threat of death or torture in the event of capture would be difficult to estimate.

The threat of torture, if captured, may have greater deterrence among potential terrorists, who are presumably volunteers. But there appears to be no study of any such effect. Moslem periodicals claimed that revelation of US torture of Abu Ghraib prisoners was an important recruiting device for terrorist organizations, a perverse but undocumented deterrence effect.

There may be a more general deterrence benefit of torture. As a demonstration of national power, it may be intended to deter others from hostile actions. That may be more important for relatively weak than for demonstrably strong nations. Nobody doubts that 21st century US is capable of devastation anywhere in the world. North Korea may be a better candidate for such demonstration. Hostile actions frequently reinforce victim countries' determination to retaliate, certainly not just with torture. The 1941 attack on Pearl Harbor certainly united the US public in favoring retaliation against the Japanese and was used to justify the firebombing of Japanese cities and, perhaps, the dropping of atomic bombs at the end of World War II. However one parses the data, the attack on Pearl Harbor was about as costly an error as any in history, possibly excepting Germany's invasion of Russia in 1940.

Torture is likely to fit in this category. Torturing prisoners may be viewed as an *unethical* form of warfare and may be used to justify not only torture but also normal forms of warfare in retaliation.

In spite of this generalized potential benefit of torture, quantitative analysis is unlikely to be feasible. Everything depends on anecdotes and interpretation.

Frequent accounts of torture suggest that motives may be obscure or, sometimes, sheer vindictiveness. For example, Sheehan 1988, pp.102-104, recounts examples of US officers during the Vietnam conflict simply lining Vietnam prisoners and arbitrarily selecting one after the other and torturing them until they died. No questions were asked and US soldiers and Vietcong prisoners had no language in common. Mayer (2008) provides many stories of prisoners tortured in Abu Ghraib, Guantanamo and Hanoi. Rejali(2007) provides the most extensive list of torture episodes by US and other groups. In many cases the desire to extract information was secondary to inflicting sheer injury or death. It seems unlikely that such episodes would have survived benefit-cost analysis.

2.2 Costs of Torture

Most costs of torture are easy to measure. Facilities to keep prisoners secure are similar to conventional prisons and guards and other security personnel can be counted and their salaries and fringe benefits are easily tabulated. Devices used for torture are conventional, cheap and easily valued.

More generalized costs of torture are much more difficult to calculate. The costs of possible retaliation can presumably be evaluated, but the probabilities of various kinds of retaliation are difficult to estimate to a useful degree of accuracy.

Most difficult to estimate is the alleged *demoralization* of a society that permits its government to torture enemies. See Gill (2004), Goldsmith (2007), Mayer (2008) and Napolitano (2007). At a lesser scale, evidence concerning police brutality in Los Angeles and Chicago (see Rejali, 2007) certainly resulted in outrage in US press accounts, but lasting public demoralization is an unknown matter. In both examples, offending police were prosecuted, presumably assuaging the public's sense of guilt.

Mention should be made here of the difficulty of monitoring torture at operatives' levels. Rejali (2007) presents evidence that torturing people is addictive. Operatives tend to escalate intensity as they gain experience, especially if victims resist giving desired answers. That fact makes adequate monitoring of operatives difficult and expensive. Finally, mounting evidence suggests that the recent availability of methods of 'clean' torture has motivated authorities to increase the use of torture since clean torture is difficult to detect. See Rejali (2007).

2.3 Overall Evaluation

Governments have or should have information that is crucial in evaluating the benefits and costs of torture. They should be able to provide at least the costs of maintaining facilities, numbers of prisoners tortured in what ways, information extracted, alternative sources of such information, and uses made and value of such information. Of course, governments must keep current or recent information secret. But with a lag of, say, five years, there should be no reason not to publish at least summary data.

Governments are extremely sensitive regarding torture information. But if they believe the benefits of 'enhanced interrogation' exceed the cost, and that what they do is legal, they should be willing to permit independent analyses of relevant data.

Senior US government officials appear to be loathe to attribute information for important decisions to torture. When they do, the result is often embarrassing. The best US examples concern the war in Iraq. Secretary of Defense Rumsfeld, Secretary of State Powell and President Bush made public claims of reasons for attacking Iraq apparently based on information obtained by torture that turned out to be doubtful (See Clark 2004, Goldsmith 2007 and Mayer 2008).

My concluding observation is that the US problem with security information is not the lack of information or the need to rely on torture, but the inability to evaluate, process and transmit useable information to senior decision makers. During recent crises, US security agencies have been flooded with information. The US government has about a dozen security agencies. All collect voluminous data by electronic means, from public data, from informants, and presumably from spies and torture. Washington agencies compete with each other, guard their data from other agencies and attempt to put their views before senior officials. Despite the remarkable amount of anecdotal information that has been published, the Iraq war is too current and painful to evaluate. A summary statement is that there has not been a coherent statement of reasons to have invaded Iraq. Of course, Saddam was a terrible dictator and a weak imperialist, but if the US dropped bombs on all countries whose rulers fit that description, it would need to bomb about half the

countries in Africa, some in Latin America and a few in Asia.

I substantiate my claim that the US finds it difficult to put coherent security information before senior officials by reference to earlier examples over which anger has cooled and about which calm histories have been written.

I start with the 1941 attack on Pearl Harbor, which had nothing to do with torture except for the torment of Nisei citizens in California in early 1942 prior to their unconstitutional imprisonment (see Sheehan, 1988). The US had broken the Japanese code before December 1941 and knew that an armada of Japanese warships was headed east across the Pacific. Their mission was not known, but the US military at Pearl Harbor was having a relaxed weekend on December 7 and had not moved the Pacific fleet from harm's way in preparation for a possible attack.

In Korea, where there was much apparently *unproductive* torture on all sides, Mac Arthur's forces had fought to the Yalu River by the end of 1950, and the US had complete control of the air, but useable information about Chinese troops massed north of the river apparently did not become available, or was not used to prevent painful slaughter of South Korean and US troops after the Chinese crossed the river (See Sheehan, 1988).

In Vietnam, all sides tortured civilians and prisoners, but torture by US forces seems not to have forestalled their ignominious exit (See Sheehan, 1988 and Rejali, 2007).

The 1962 Cuban missile crisis is by now extremely well documented (see Dobbs 2008). The US discovered the Russian missiles by aerial photography and collected much valuable information by that means during the crisis. Such information was fed quickly to White House decision makers with hardly any processing or interpretation. Many errors were made in interpretation of evidence and options, but US planes had unobstructed access to Cuban airspace until the Cubans destroyed one US plane near the end of the crisis. Military leaders in both the US and Russia urged escalation based mostly on animal instincts. The crisis ended when both President Kennedy and Premier Khrushchev wisely decided that Cuba was not worth destroying the world with atomic bombs. Although the Castro regime did not hesitate to employ torture on its people, only small US-backed forces surreptitiously landed, unproductively, on Cuban soil, and their actions were restricted to evasion and did not include torture. The Cuban crisis certainly illustrates the value of aerial and electronic collection of information. See Dobbs (2008);author's conclusion from the Cuban crisis is that such crises can escalate by their own momentum and that even slight errors in tense situations incur the risk of terrible escalation.

The best example of the inability of US intelligence agencies to process information is the latest and best documented crisis, the *9/11 Commission Report*, undated.

On the morning of 9/11/200l, terrorists seized control of four scheduled commercial jets within an hour or two after take-offs from East Coast airports. Large planes loaded with fuel for transcontinental flights were chosen because they would make the most deadly projectiles when they hit their targets. Two hit and destroyed the twin New York World Trade Center towers, the third crashed in western Pennsylvania after the terrorist seizure was disrupted by brave passenger action, and the fourth hit the Pentagon. The target of the third plane is not known, but the White House or the Capitol are good guesses.

Bravery and dedication were shown by operatives during the crisis. New York police and fire personnel have been much celebrated. At the national level, President Bush was quickly moved from a school where he was talking to students, government personnel were evacuated from D.C. offices, and the sky was quickly emptied of all non-military aircraft. At the time, nobody knew how many flights had been or would be hijacked.

The hijackers were *all* foreigners who had been legally admitted to the country. Several of

those who intended to pilot seized planes received their flight training in private US flight training schools. By spring and summer of 2001, the 9/11 Commission Report shows that US security agents had received voluminous reports that Al Qaida was planning one or more massive terrorist attacks against US facilities abroad and/or in the US. Yet no one in the security agencies was able to put the evidence together and pass recommendations to appropriate political decision makers. In addition, during the spring and summer, flight instructors reported to the FBI suspicious behavior of the terrorist trainees: some said they wanted to learn to fly only four engine jets despite having no previous flight training and some said they wanted only instruction in steering planes, not in take-offs and landings. No one in the FBI appears to have made appropriate inferences from such reports or to have conveyed such inferences to higher officials. Although domestic airline hijackings were not the prime focus of attention, domestic carriers had been ambiguously warned to be on the alert, to no effect.

Perhaps most incredibly, 51 minutes elapsed between the time the first plane hit the World Trade Center and the time the fourth plane hit the Pentagon. Well before the end of that time, the President was in the air and US fighters were tailing the fourth plane as it headed back east. The President gave the order to shoot the plane down, but the order never reached the fighters tailing the plane[3].

My final examples of the ineffectiveness of US torture programs is the Vietnam War. It is an especially valuable example in part because it is relatively recent, but also because it is extremely well documented. This prime US attempt to identify and kill Vietcong enemies was the Phoenix Program (The program is described and evaluated successfully in Rejali, pp.470-472). The best estimate is that the program victimized 38 innocents for every Vietcong, and that it killed 103 innocents for every Vietcong killed. Presumably, typical victims were tortured for information before being killed.

Vietnam is probably the worst foreign intervention in the US history. We defended, futilely, a communist government. Vietnam has grown substantially since we evacuated. Alas, the beloved "domino" effect has not materialized.

3. Conclusions

No one can say that the benefits of torture never do or can exceed the costs. Bush administration officials, led by Vice-President Cheney, have insisted that their enhanced interrogation has saved US lives in Afghanistan and Iraq. And of course we cannot know if crises have been averted because of information obtained by torture or by other surreptitious means. Insufficient evidence has become publicly available to test such assertions.

My conclusion is more procedural. It is extremely difficult to limit torture to situations in which benefits have high probability of exceeding costs. Operatives are typically incapable of making such sophisticated judgments. They are motivated to obtain plausible statements quickly that please them and/or their superiors. They lack sophistication to judge the time dependence, plausibility or redundancy of statements they extract. Furthermore, according to much evidence, torture is *addictive;* operatives are unable to make objective decisions about the benefits of torture after they have undertaken a modest amount.

There is little public evidence that decision making officials are confident enough of the accuracy and relevance of information obtained from torture to base important decisions on such information.

[3] The reference for all the events described above regarding 9/11 is the 9/11 Commission Report.

Most importantly, in major international crises since 1941, the US appears to have been inundated with advance information that would have enabled the country to have avoided or mitigated damage inflicted by hostile foreigners, but its security agencies and/or political decision makers have been insufficiently intelligent or sophisticated to assemble or evaluate the evidence.

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