

Luban on Torture

Torture has generally been frowned upon in the U.S. But, after the events of 9/11, people have become more accepting of this practice. So, the issue of torture has once again become a topic of debate among ethicists.

Luban mentions 5 reasons that people have tortured others in the past:

1. To relive a victory; to humiliate the enemy and feel victorious.
2. To scare others into submission; to subdue via terror.
3. As a form of punishment.
4. To extract a confession from a criminal suspect.
5. As interrogation; to gather intelligence from uncooperative captives.

Luban thinks reasons 1-4 are clearly wrong. [Is this correct? Pojman will argue that we should bring back 3 as an option] Let's take a closer look at 5.

Torture As Interrogation: Many people seem to think that 4 and 5 are on a par with one another, but Luban points out that 4 is backward-looking (torturing for something that happened in the PAST), while 5 is forward-looking (torturing to prevent something bad from happening in the FUTURE).

That said, torture as interrogation is sometimes justified because it is for the greater good. We torture uncooperative captives to obtain information from them that will SAVE INNOCENT LIVES. The torture is a small price to pay for this information. At the very least, it seems like torture would be permissible if:

- It is solely to gather information that will prevent a catastrophe
- It is the only way to gain this information
- Torture is the exception, and not the rule
- The torturer takes no pleasure in the cruelty

Such an idealized situation is captured in the following scenario:

- Ticking Time Bomb: There is a time bomb hidden somewhere in a crowded city, set to explode within the hour. You have custody of the bomber, but they are unwilling to tell you where the bomb is. If you do not obtain the information from the bomber, over 1 million people will die.

Most people think it is clearly permissible to torture the bomber to extract intelligence in this scenario—thus disproving the view that torture is ABSOLUTELY wrong (i.e., NEVER permissible). Torture, then, is only PRIMA FACIE wrong.

Against The Ticking Time Bomb Scenario: Luban argues that focusing on the ticking time bomb scenario is misleading. In real life:

- Torture almost never elicits intelligence from captives.
- When it does, it usually takes WEEKS or more to obtain the information.
- We are never 100% certain that there even IS an immanent threat.
- We are never 100% certain that the person we are torturing has any information that will save lives.

Further, if torture were a permissible policy, other complications would arise:

- Slippery slope: Where do we draw the line? Can we torture 1 person if we are only 90% sure that there is a threat? How about 80%? Can we torture them if only 10 people's lives are in danger? How about 5 people's lives? 2 people's? Luban worries that if we let torture in the door, it will quickly lead to torture being used in all sorts of cases.
- Consequentialism: Torture advocates seem to assume something like consequentialism. It is just a case of number-crunching to see if torture should be used. But, Luban notes, "Once you accept that only the numbers count, then anything, no matter how gruesome, becomes possible." This statement seems deontological in flavor.
- Torture culture: Torture as a policy would give rise to a torture culture: torture courses, torture specialists, torture device manufacturers, etc.; and this is barbaric. Furthermore, torture specialists would have to become basically inhuman, having little regard for human life. Basically, we would have an occupation of de-humanized people working for the military, who would do our torturing for us.

Conclusion: This seems to be Luban's position: Even if torture is permissible in idealized "ticking time bomb" cases, these cases are the stuff of fiction. In the real world, if we permit the use of torture to extract intelligence, it will quickly lead to consequences that are worse than the benefits.