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“Why Not Torture?”

Why not torture? With this week’s sentencing of Private Lynndie England to three years in prison for abusing naked Iraqi prisoners at Abu Ghraib, and new public reports by Army Captain Ian Fishback and Human Rights Watch of American abuses of prisoners elsewhere, the question refuses to go away.

President Bush, fortunately, has renounced torture as a matter of policy. But his lawyers, including Attorney General Alberto Gonzales, decline to rule it out as a matter of law, so long as it is committed by American forces against foreign nationals outside the US – as at Abu Ghraib – or even inside the US, if the Commander in Chief deems it useful as a method of war.

Their legal waffling is untenable. As Judge Antonio Cancado Trindade of the Inter-American Court of Human Rights, visiting Notre Dame this week, told students, “Torture is prohibited, period.” Everywhere, always.

Law alone, however, is not enough to convince some people that torture is never acceptable. So let us look beyond law.

First, let us be clear about what torture is. It is not merely the deliberate infliction of excruciating physical pain. It is above all a premeditated assault on the psyche, an effort to literally “break down” a human being. It is the penultimate, if not the ultimate, assault on human dignity. Many people die bravely. Few suffer torture bravely.

Torture degrades and demeans not only its victims, but also the interrogators who inflict it, the superiors who authorize it, and the society that condones it.

Torture is not a mere moment of dehumanization. It is not even the weeks or months it sometimes lasts. For many victims and their families, torture is a life changing event.

Torture’s lifelong legacies were eloquently documented last year by the report of Chile’s National Commission on Political Prison and Torture, chaired by Bishop Sergio Valech.

The commission examined the effects, 30 years later, of torture by the Pinochet dictatorship in the early 1970’s. Victims, it found, had been “submerged in raw sewage water nearly to the point of asphyxiation; subjected to electric shocks on sensitive parts of the body; harassed sexually, when not raped by persons or animals, or forced to witness the rape and torture of their loved ones.”

Common reactions three decades later included a man who told the commission, “My character changed, I became aggressive and isolated, and I began to suffer a permanent, lifelong terror.”

Another typical victim “changed character. He had no interest in life, and always has a certain bitterness and depression.”

Torture contradicts our humanity. If morality condemns anything, it condemns torture.

Yet some say there is a countervailing, superior morality. They invoke the “ticking bomb” scenario, in which, hypothetically, we capture a terrorist who alone knows where a nuclear bomb is planted that will blow up New York in 30 minutes. Surely, they argue, it is moral to torture the prisoner to find the bomb and save a million lives.

Is it? Just how far would they go? If the terrorist does not talk, is it then also moral to torture his innocent wife, while he watches, to force him to talk? Or even to torture his five-year-old child? After all, if morality can be reduced to comparative numbers, why not torture a child to save Manhattan?

Are there no bounds on what we can justify? Or are some actions simply off limits?

Even if we were prepared to relativize all morality, there is also a strong practical case against torture. Although the “ticking bomb” scenario may be conceivable in theory, it is extremely rare in the real world.

And how could we know it when we had it? Presumably our police would rely on intelligence to believe that they had nabbed a “ticking bomb” suspect. But intelligence -- the same stuff that told us Saddam Hussein had weapons of mass destruction -- is notoriously unreliable. If the morality of torture depends on a ticking bomb, how can we know there is a bomb? Or that the suspect we propose to torture knows where it is?

Suppose we torture the suspect anyway, despite our doubts. Some terrorists are so hardened that they will not confess under torture. Others will confess only lies. So we may commit torture, only to gain nothing or be sent off to the wrong location. Either way, we torture but do not save New York.

As against this remote and tenuous case for torture, we must weigh the real world costs of ever justifying torture. History teaches that whenever torture is allowed for an alleged good cause, torturers everywhere find abundant justifications. Pinochet tortured to save Chile from communism. Fujimori tortured to save Peru from terrorism. Police torture to find murderers. Few see themselves as gratuitously evil; they justify their brutality in the name of some greater good.

That is why, after a long struggle to contain torture, the world concluded that torture must simply be made illegal, period. Everywhere, always. Otherwise repressive regimes and security forces will, almost everywhere, almost always, find justifications for their inhuman behaviour.

Doug Cassel’s commentaries are broadcast Wednesdays during the noon hour of the Worldview program. All views expressed are the personal views of the author and not necessarily those of Notre Dame Law School, the Center for Civil and Human Rights or Chicago Public Radio.