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Tortured Policies on Torture: Notes from the House of the Dead?

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Title: Tortured Policies on Torture: Notes from the House of the Dead?

Recently, the American Psychological Association (APA) formally rejected a proposal that would have allowed psychologists to provide health care services to detainees at sites that are in violation of the U.S. Constitution or international law—even if the detainees request such services (1). Based on a rationale imbued with humane care, compassion, and concerns for ethics, APA has decided to deny care to those who want it. The core concern is that providing such care is or can be construed as aiding and abetting torture. What to make of such a rejection?

One problem is the diversity of interpretation as to the meaning of legal documents concerning the very nature of *torture*. For example, a United States Assistant Attorney General has found that according to *18 U.S.C. Sections 2340-2340A*, certain acts may be cruel, inhuman, or degrading, but still may not produce pain or suffering of intense enough to be considered torture (2). According to *The Inter-American Convention to Prevent and Punish Torture*, torture may include efforts to “obliterate the personality” of a detainee or diminish physical or mental capacities, even if they do not cause physical pain or mental anguish (3). And according to *The United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)*, torture does not include “...pain or suffering arising only from, inherent in or incidental to lawful sanctions” (4).

Another problem is the diversity of ethical calculation at least implicitly imbuing how torture might be valued. One common alternative comprises the *utilitarianisms*, i.e., the greatest good, often for the greatest number of people. Another are the *deontologies*, i.e., an act’s intrinsic goodness or badness regardless of consequences. These *deontologies* often embrace *intentions*, viz., regardless of consequences the *intentions* related to an act are intrinsically good or bad. Yet another alternative is *virtue ethics* bearing on the *character* of an actor, not the act, intentions, nor consequences. Another APA, the American Philosophical Association, might have more ethical standing on negotiating such alternatives.

In addition, there’s the problem of estimating the *effectiveness of torture*, given that such estimates might be part of ethical calculations especially for the *utilitarianisms* and *virtue ethics*. Here *effectiveness* might refer to success in obtaining desired information, not in inducing pain, atrocity, and so on. It turns out that systematic analyses of opinions and anecdotes from professional interrogators suggest that *torture* is often not necessary, because establishing rapport with detainees and satisfying some important psychological needs will more likely obtain information that is more relevant, timely, and accurate (5). Moreover, there’s scholarship identifying neuropsychological effects on detainees from *torture* that could impede memory consolidation, retention, maintenance, recognition, recollection, and other processes (as well as the corresponding neuroanatomical and neurophysiological effects) crucial to obtaining desired information (6). Perhaps surprisingly to the general public, there’s also scholarship identifying noxious effects of torture on at least some torturers. These include problems of trust

and intimacy in long-term relationships, substance abuse and dependency, interludes of rage and impulse deregulation, individual and social alienation, and more pronounced sadistic tendencies (7). However, torture is effective with some detainees in some situations based on anecdotal data. Professional ethics including those of APA have mitigated against researching torture's effectiveness through meeting scientific standards such as transparency and accessibility of data and methods, as well as pre-registration of hypotheses (8).

With the above background, ethical justification for denying health care to detainees might seem problematic. As to an APA exception that health care to detainees would be allowed at sites in violation of the U.S. Constitution or international law, if the psychologist is not a member of national security organizations but instead independent humanitarian ones (9)? Justifications might comprise several presumptions about national security psychologists—viz., they will provide a lower quality of care; they can't be intentionally humanitarian; they are compromised in that a detainee is ineluctably in a better situation not having health care needs met than having them met in situations presumed to be evil. Other justifications might include the presumption that psychologists with formally labeled humanitarian organizations are not compromised by their own nexus of personal, professional, and political issues.

Some eminent students of human psychology from the world of literature—Fyodor Dostoevsky in his *Notes from the House of the Dead* (10) and James Joyce in his *Dubliners* conclusion “The Dead” (11)—might give us the following. In the former case, the vilest criminals dead to society may have purities of soul and can even be resurrected. In the latter case, love of the dead can endanger love of the living. As Nietzsche wrote about philosophy (12), policies on torture are really about our own autobiographies, especially on an encroaching date with Death.

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Keywords: Death. Ethics. Interrogation. Torture.

Abstract/Description: This article describes issues needing to be resolved before policies on the use of enhanced interrogation techniques including torture are developed, implemented, and assessed.

Disciplines: Other Psychology, Philosophy, Political Science, Other Political Science, Psychology, Defense and Security Studies, International Relations

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