

# The Making of a Torturer

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Liberal democracies that perpetrate torture represent an apparent paradox: a flagrant violation of human rights by states supposedly dedicated to protecting human rights. In liberal democracies, the political, social, and legal narratives used to justify torture portray torture as an individual act motivated by important moral values. This individualized torture narrative then shapes the moral framework through which the public, policy-makers, and individual torturers view torture, and masks the institutional nature of torture perpetration. This interaction between an individualized torture narrative and the moral framework of torture distinguishes democratic perpetrators (Critchell et al. 2017, 9–10) from non-democratic perpetrators of torture. Yet, the implementation of a torture program in a democratic state is remarkably similar to the implementation of a torture program in a non-democratic state. In both cases, torture is an institutionalized practice given moral and political meaning through broad social and political narratives. This chapter uses the post-9/11 US torture program as a case study of a democratic perpetrator in order to explore the interaction of democratic narratives of torture, state implementation of torture, and the moral psychology of individual torturers. This permits a way of thinking about torture perpetration that goes beyond a myopic focus on torture as individual act to understand the interaction and mutual reinforcement of different forms of torture perpetration. This analysis also offers a starting point from which to consider how to resist and oppose torture narratives that sustain democratic torture, a question I explore in the conclusion of this chapter.

## Democratic Torture and Non-Democratic Torture

In *Torture and Democracy*, Darius Rejali explains how torture in liberal democracies emerges within a “national security model” (2007, 46). In this model, torture may first be used during a conflict by military and/or police forces—sometimes without the knowledge of military or political leaders—outside the borders of the state and almost exclusively against non-citizens. Democratic institutions, such as the judiciary and the press, may fail to stop the use of torture, leading to a situation in which the “police and the military soon operate outside the law ... they form a closed state within the state” (Rejali 2007, 47). According to Rejali, the use of torture by the French in Algeria in the 1950s and 1960s fits this pattern (2007, 47–49). In contrast,

torture in authoritarian states tends to be justified as necessary to protect the state's internal security and is used primarily against citizens perceived to be opponents of the regime.<sup>1</sup>

The post-9/11 US torture program fits broadly within the national security model but differs in important ways. Unlike French torture in Algeria, the post-9/11 torture program was explicitly authorized by the government and given political and legal approval. This marks an important shift in US torture. Prior to 9/11, the use of torture by American military and intelligence forces was covert and was not publicly endorsed by the US government. For example, from the 1940s to the 1960s, the CIA sponsored research on psychological torture methods (McCoy 2006) and during the Vietnam War conducted a covert torture and assassination program known as the Phoenix Program (Rejali 2007, Chapter 21). In the 1970s and 1980s, the infamous School of the Americas (now the Western Hemisphere Institute for Security Cooperation) was known to teach torture methods to military and intelligence officials from military dictatorships in Latin and South America (Weschler 1990).

In contrast to this history of covert torture, the post-9/11 torture program was publicly defended by politicians, journalists, ethicists, and lawyers. This represents an unprecedented shift towards the public acceptance of torture and offers a unique opportunity to trace the narrative frameworks that play a crucial role in the implementation of torture within a democratic state and help create democratic perpetrators of torture.

### The Ticking Bomb Scenario and Individualization of Torture

The post-9/11 torture debate was often framed around the ticking bomb scenario: a hypothetical situation in which we are asked to consider whether it is permissible to torture a terrorist to find out the location of a bomb that will explode shortly. The use of this scenario is common in philosophical debates about torture—often as a way of casting doubt on absolutist positions on torture (Allhoff 2012; Steinhoff 2013)—but it also plays an important role in the legal and political justification of torture in democratic states and in fostering public acceptance of torture. In 1976, after the European Commission of Human Rights had found that the “five techniques”<sup>2</sup> used against suspected IRA members by British forces amounted to torture, the British press defended the use of torture by “describing a situation in which a captured terrorist knew where a bomb had been planted in a school filled with children” (Conroy 2000, 137). In 1999, the Israeli Supreme Court ruled that torture was illegal but that security officials accused of torture could plead necessity in ticking time-bomb cases (Luban 2014, 81–82). In the US, reference to ticking bomb-type scenarios appears in the August 1, 2002, memo on the “Standards of Conduct for Interrogation” (hereafter the Torture Memo) prepared by the Office of Legal Counsel for the White House. The memo argues that the necessity defense could be available to military personnel charged with torture in circumstances very like those that characterize standard ticking bomb scenarios:

A detainee may possess information that could enable the United States to prevent attacks that potentially could equal or surpass the September 11 attacks in their magnitude. Clearly, any harm that might occur during an interrogation would pale to insignificance compared to the harm avoided by preventing such an attack.

*(Cole 2009, 92)*

Thus, the ticking bomb scenario plays an important role in shaping torture narratives within democratic states. The persistence of the ticking bomb scenario is explained by the ways in

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which different elements of the scenario seem to reconcile the use of torture with liberal democratic values.

First, the ticking bomb narrative portrays torture as a tactic that is being considered only because of the extreme threat posed by terrorism. It has never been used before and will never be used again. The depiction of the resort to torture as unprecedented enables a form of collective “amnesia” about a state’s history of torture, even though every state that has used the ticking bomb scenario to justify torture *has* used torture before (Rejali 2007). Thus, President Bush stated in 2005, “We do not torture” (Riechman 2005), despite overwhelming evidence of the use of torture at the time and the extensive history of US torture referred to earlier. Another example of this amnesia occurs in the memoir of James Mitchell, one of the psychologists responsible for designing and implementing the CIA’s enhanced interrogation program. According to Mitchell, the CIA told Congress that they recruited him and another psychologist for the enhanced interrogation program because, “we [the CIA] would have been derelict had we not sought them out when it became clear that CIA would be *heading into the uncharted territory of the program*” (Mitchell 2016, 48, emphasis added). Describing the decision to develop an enhanced interrogation program as “heading into uncharted territory” neatly elides the extensive history of CIA research on torture, use of torture, and training of torturers.

The second function of the ticking bomb scenario is to focus our attention onto the individual torturer rather than the system of which he is a part. In the ticking bomb scenario, torture is depicted as a “single, ad hoc, decision about whether to torture, by officials who ordinarily would do no such thing” (Luban 2014, 60). The scenario invites us to think about torture “from the torturer’s point of view” (Luban 2014, 55) rather than from the victim’s perspective. The ticking bomb scenario frames the use of torture as a necessary evil, undertaken only to save lives. Thus, torture is acknowledged as evil, as “abhorrent both to American law and values and to international norms,” as the first sentence of the December 30, 2004, Office of Legal Counsel memo states (Cole 2009, 128),<sup>3</sup> but we are invited to admire the torturer, since he is motivated only by the desire to save lives. This focus on a single individual’s motives and actions ignores the reality of state torture as a systematic practice involving policies, procedures, infrastructure, and institutional support.

By framing the choice to use torture in this way, the ticking bomb scenario reconciles the use of torture with the liberal state’s commitment to the protection of human rights and the rejection of tyranny (Luban 2014, 56). The ticking bomb scenario thereby generates reasons for torture that seem, on the face of it, endorsable by reasonable citizens in a democratic state, because they are consistent with legitimate state purposes.<sup>4</sup> This depiction of the torturer’s motives is reflected in the discussion of the necessity defense in the Torture Memo, which states that the defense requires that it “must actually be the defendant’s intention [in using torture] to avoid the greater harm” (Cole 2009, 92). Since, according to the memo, such a defense could be available to a defendant charged with torture, the memo’s authors clearly believe that torture can be used with the sole intention of saving lives.

An additional function of the individualizing of torture in the ticking bomb narrative is drawing a distinction between “good” torturers and “bad” torturers. The good torturer is motivated by the need to save lives. He will only torture to gain the information he needs, and he will not torture again. By implied comparison, the bad torturer is unprofessional and sadistic. He has no moral qualms about torturing anyone he is asked to torture.

This difference between “good” and “bad” torturers is evident in the media and political coverage of torture scandals that have occurred in democratic states. During the Bush Administration, the White House maintained a website containing victims’ accounts of torture and

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execution under Saddam Hussein's regime (The White House 2003). Such testimony helped justify the supposed necessity of removing Hussein through military force and highlighted the moral goodness of the US in comparison. In response to the revelations of torture and abuse at Abu Ghraib prison in 2003—revelations that threatened the supposed moral difference between Hussein's torturers and US troops—the Bush Administration described the guards involved as “bad apples” whose actions were not characteristic of the military as an institution (Editorial Board 2014). The “bad apple” analysis of the events at Abu Ghraib dominated discussion of US torture after 2003, resulting in far less discussion of the torture program that was occurring at Guantanamo Bay and elsewhere at the same time. The view that the torture program at Guantanamo Bay (in contrast to the torture at Abu Ghraib) was professional, justified, and legitimate is evident from the decision to transfer the commander of Guantanamo Bay to Iraq to “clean up” the prisons there (Hersh 2005, 32). James Mitchell also describes the events at Abu Ghraib as the actions of a few rogue individuals and worries about the negative impact of the scandal on the CIA's enhanced interrogation program: “I knew the CIA program would take a hit because of the stupid and self-indulgent criminal activities of a few bored and poorly supervised military officers” (2016, 231). In Mitchell's eyes, the torture at Abu Ghraib had nothing to do with the CIA interrogation program, which, in his view, was (at least initially) professional, lawful, and necessary. Indeed, he suggests that the professionalism of the CIA program prevented even worse abuses:

I think in retrospect the troublesome things done later on by the few officers who did go outside approved guidelines illustrates how bad it could have been throughout the CIA's interrogation program without a carefully crafted list of techniques approved by the Department of Justice and closely monitored during implementation.

(Mitchell 2016, 42)

The individualizing narrative of torture thus serves to distinguish professional, legitimate torture from abusive, unprofessional torture in a way that enables those involved to identify their actions and motives as being lawful, honorable, and justified.

This narrative also affected how US courts and the Bush Administration interpreted the intent requirement in the legal definition of torture. The Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT) defines torture as involving “any act, by which severe pain or suffering, whether physical or mental, is *intentionally inflicted* on a person for such purposes as obtaining from him or a third person information or a confession” (Bagchi 2009, 3, emphasis added). Despite evidence that the CAT Drafting Committee intended the intent requirement to mean *general intent*,<sup>5</sup> US courts and the Bush Administration interpreted the intent requirement to mean *specific intent*. This means that, for an individual to be guilty of the crime of torture, he would have to act with “the intent to accomplish the precise criminal act that [he] is later charged with” (Bagchi 2009, 15). The Torture Memo spells this out explicitly:

... a defendant is guilty of torture only if he acts with the express intention of inflicting severe pain or suffering on a person within his custody or physical control. ... Further, a showing that an individual acted with a good faith belief that his conduct would not produce the result that the law prohibits negates specific intent ... Where a defendant acts in good faith, he acts with an honest belief that he has not engaged in the proscribed conduct.

(Cole 2009, 45–46)

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Thus, “even if the defendant knows that severe pain will result from his actions, if causing such harm is not his objective, he lacks the specific requisite intent” (Cole 2009, 45). This means that a torturer who intends only to gain information from a terrorist may not be guilty of torture, if causing severe pain and suffering was not his primary objective but rather a foreseeable but unintended consequence of his goal of getting information. Given the Torture Memo’s argument that a defendant charged with torture who intended to prevent a terrorist attack might have access to a necessity defense, the memo offers an argument for the view that torturing with the intention of preventing terrorism may be justified and may not be torture at all.

The individualistic conception of torture is appealing for several reasons. Firstly, as described above, it allows us to draw a distinction between good and bad torturers. Secondly, focusing on individual torturers offers an easy way of allocating moral blame for the use of torture. Our moral evaluation of torture is simply an evaluation of an individual torturer’s motives. While there are contexts in which these questions are important, such as in some cases of legal punishment, the individualistic narrative of torture distorts our understanding of the processes that support the use of torture, and, as Martha Huggins argues, “overly empowers” individual perpetrators, who may be seen as “uniquely and perhaps inherently evil, motivated largely by internal psychological and biological factors” (Huggins 2000b, 55). Thus, atrocity narratives that focus on individual perpetrators help “to guarantee the relative invisibility of the structural processes that have given perpetrators the power to violate others” (Huggins 2000b, 52).

The ticking bomb narrative of torture distracts us from the fact that the *state* will implement torture, not individuals. We forget *who* will be doing the torturing, and *why* the question of torture is being asked at all. Yet, while the individualized narrative of torture is misleading and dishonest, it is essential to democratic state perpetration of torture because it creates a “torture fantasy” that gives meaning and purpose to the acts of individuals within a democratic torture culture.

### The Democratic State as Perpetrator

The torture narrative discussed above distorts our understanding of torture by distracting us from the fact that the meaning, function, and indeed the very possibility of a torturer’s actions *require* a pre-existing torture culture. Creating a torture culture requires several steps that give the individual torturer’s actions meaning and purpose.

First and foremost, a torture culture requires a class of torturable victims. In the standard ticking bomb scenario, the victim is a terrorist whose guilt is not in doubt. This victim, unlike the clear majority of real-life torture victims, *deserves* to be tortured, and so the torturer is absolved of moral guilt for torturing him. In some accounts, the torture victim is responsible for his own torture because his unjust actions created the circumstances in which the use of torture is necessary (McMahan 2005–2006, 244). This portrayal of the torture victim thereby helps create a torture culture by providing a justification for the use of torture and by creating a class of torture victims who (because of their actions) lack the moral status that would make torturing them a violation of their rights. In the post-9/11 US torture culture, terrorists, suspected terrorists, and people suspected of having information about terrorism constituted the class of torturable victims. Those subject to torture were, in the words of former Secretary of State Donald Rumsfeld “the worst of the worst” (Lithwick 2009).

The classification of torture victims as “terrorists” follows a familiar pattern in the history of democratic torture: the category of “terrorist” was used to justify torture in Northern

Ireland, Israel, and Algeria (Rejali 2007). Yet, the category of “terrorist” is not an objective term but is itself a construction based on pre-existing narratives about the definition of terrorism, the extent of the threat posed by terrorism, and the moral status of terrorists (Jackson 2005). In the US torture narrative, it is no coincidence that the terrorist in the ticking bomb scenario is typically an Islamic terrorist, rather than (say) a white supremacist terrorist. So even though “terrorist” can describe many forms of political violence committed for many different reasons, it is only because of a pre-existing narrative about the threat of Islamic terrorism that the victim in the ticking bomb scenario is placed in the category of “terrorist” and into the category of terrorists who may be tortured.

Thus, while the US torture program did not appear to select torturable individuals purely based on their membership in a collective, in practice the distinction between victim-as-guilty-individual and victim-as-member-of-a-collective was porous. Many of those subjected to torture (such as the prisoners in Abu Ghraib) were targeted not because of their individual actions but because of their perceived memberships in a group (Muslims) portrayed as threatening the very existence of the United States. That torture victims are, in reality, selected on the basis of their membership in a torturable collective is neatly obscured by the individualizing narrative of torture, which focuses our attention on whether this *specific* person may be tortured. It is no coincidence that many discussions of US torture focus on whether torture was justified in specific cases, such as the torture of Abu Zubaydah (e.g., see Mitchell 2016, Chapters 1 & 2). The criminal actions of individuals are taken to provide further evidence of the menace of the collective to which they are assigned.

The characterization of a person as a member of a “torturable” class is necessary because the decision to torture a person involves a refusal to see the victim’s status *as a person* as setting limits on what may be done to ~~that person~~. Likewise, state torture represents a refusal to accept constraints on the state’s power over its perceived enemies (Bagchi 2009, 35). Because torture is a violation of a person’s fundamental physical and psychological integrity (an attack on personhood itself), to justify torture the torture victim must be viewed as *already* less than a person. We can trace the torture victim’s degraded ~~nature~~ in the history of torture. In ancient Greece and Rome, initially only slaves could be tortured. Eventually, however, the class of those who could be tortured widened to include “lower-end citizens, the *humiliores*, and in time, the emperors did not care about anyone’s civic immunity” (Rejali 2007, 527). A similar pattern occurred in Italy in the late Middle Ages, when Italian republics introduced torture into the criminal justice system. At first, torture was only permitted against non-citizens and slaves— “[c]itizens had dignity and were thus inviolable” (Rejali 2007, 50)—but eventually citizens could be tortured if they were of bad moral reputation (Rejali 2007, 50).

This history reveals that those who were initially classified as “torturable” were *already* viewed as having lesser moral standing. It was permissible to torture them not because of what they had done or any information they possessed, but because of *who they were*. If torture was simply a tool for gaining confessions or information, it would be used against all relevant persons. The fact that torture was restricted, at least initially, only to those who already lacked moral standing reveals that the decision to use torture is not governed by an objective belief in the effectiveness of torture but by a belief that only people of lesser moral standing deserve to be tortured. Because torture is inherently degrading and depersonalizing, it should only be done to those who lack dignity and personhood.

History also shows us that torture, once introduced, expands beyond any initial constraints. While torture was initially restricted to slaves and noncitizens in Rome and Greece, the pool of torture victims eventually spread far beyond those bounds. A similar pattern

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occurred in the use of torture in military dictatorships in Latin and South America in the 1970s and 1980s. During the “Dirty War” in Argentina, military officers were initially reluctant to use torture. But, towards the end of the military dictatorship: “hardened young officers were placing bets on who could kidnap the prettiest girl to rape and torture ... Escalation, is the rule, not the aberration” (Luban 2006, 48). Because torture aims to dehumanize and depersonalize its victims, torture becomes self-justifying: if a person is tortured, it must be deserved. By engaging in torture, the torturer implicitly affirms that they do not recognize any limits on what may be done to a person under their control, and so there is no reason to accept moral limits on who may be tortured.

Similarly, the creation of a torture culture within a state represents a refusal “to acknowledge limits on state power” (Bagchi 2009, 35). The Torture Memo puts this quite explicitly, arguing that “laws that seek to prevent the President from gaining the intelligence he believes necessary to prevent attacks upon the United States” would be unconstitutional (Cole 2009, 90). Once it has been accepted that there are no limits on state power, moral constraints on the use of torture fall away.

As we will see in the final section of this chapter, the creation of the category of torture victim and the denial of any limits on state power are the first steps in structuring and giving meaning to the purpose of state torture in both democratic and non-democratic states. In democratic torture narratives, however, the torture victim is framed as a terrorist, and so the purpose of torture is to save lives and protect the state. This purpose then shapes the motives and intentions of individual torturers. Many of those involved in the creation and implementation of the US torture program describe their motives in these terms. James Mitchell, for example, describes the Senate investigation in the CIA torture program as a “witch-hunt” aimed at “smearing ... the CIA and the people who worked hard to protect America” (2016, 233). Thus, framing torture as a necessary evil to protect the state is not simply propaganda: it has a real impact on the ways in which those involved in implementing a torture program justify and make sense of their actions.

The creation of torture culture in democratic states also requires defining torture in such a way as to distinguish legitimate from illegitimate torture (or “torture lite” from “real” torture (Wolfendale 2009)). The US torture memos reveal a concerted effort to define torture so narrowly that the techniques proposed by the CIA, including waterboarding, would not meet the definition of torture. The Torture Memo argues that only acts that cause damage “ordinarily ... associated with ... injury such as death, organ failure, or serious impairment of body functions” (Cole 2009, 47) meet the threshold of torture, and so the techniques under consideration do not meet this threshold. A 2005 memo evaluating CIA interrogation techniques steps back somewhat from this definition of torture but still argues that *none* of the techniques, including waterboarding “inflicts severe pain or suffering or prolonged mental harm” (Cole 2009, 27) either individually or when used in combination. This denial that the enhanced interrogation methods are torture helps sustain the distinction between “good” and “bad” torturers discussed earlier. As we saw earlier, James Mitchell described the Abu Ghraib torturers as “poorly supervised,” untrained, and “bored” (Mitchell 2016, 231). Yet, by characterizing the Abu Ghraib guards as flawed individuals acting alone, he fails to see the relationship between the abuse they committed and the torture program of which he was an integral part. Understanding why the guards believed that *these* prisoners were torturable, and understanding why they chose the forms of abuse that they did (such as the use of dogs and sexual humiliation), requires seeing their actions in the context of the torture culture of which they were a part.

## Comparing Democratic and Non-Democratic Torture

As described above, democratic torture narratives depict torture victims as external enemies of the state, characterize the motive for using torture as the desire to save lives, and describe the techniques used as either not torture at all, or as not “real” torture. These elements play an essential role in resolving the apparent contradiction between the use of torture and the democratic commitment to human rights. In contrast, torture in non-democratic states is framed around a somewhat different narrative in part because there is no need to reconcile the use of torture with democratic values, and so non-democratic torture narratives do not need to deny that *torture* is being used. In addition, while non-democratic and democratic torture narratives share a focus on national security as the primary justificatory framework for the use of torture, non-democratic torture narratives locate the supposed threat to security internally rather than externally. In his study of torture in Brazil, Uruguay, and Argentina during the 1970s and 1980s, Lawrence Weschler describes the “national defense doctrine” that spread throughout military and political leadership in those countries and was strongly influenced by American Cold War thinking. This doctrine emphasized “that strengthening the national system against possible external attack was in fact less important than shoring up institutions against an ‘internal enemy’ that might be trying to undermine them” (Weschler 1990, 58). This means the class of torturable victims in non-democratic torture cultures tends to be citizens rather than foreigners. However, in both democratic and non-democratic states, this class of victims is characterized as deserving of torture by virtue of their perceived dangerousness.

There are therefore differences between democratic and non-democratic torture that reflect the relative importance attached to reconciling the use of torture with the values ascribed to the state. Yet, in practice, the implementation of democratic and non-democratic torture cultures is remarkably similar.

## The Reality of a Torture Culture

Whether it occurs in a democratic or non-democratic state, a torture program requires the involvement and complicity of thousands of people. James Mitchell’s description of the interrogation of Abu Zubaydah offers an insight into the sheer number of people (and the institutions they represent) involved in even a single act of torture:

The team on-site consisted of the chief of base; a handful of operations officers, several analysts and targeters; a reports officer; medical personnel, including a physician; an operational psychologist ... an Arab translator ... a lot of guards; and a subject matter expert on law enforcement interrogations.

(Mitchell 2016, 58–59)

*Brasil: Nunca Mas*, a book documenting hundreds of cases of torture during the military dictatorship in Brazil, describes many forms of participation and collaboration involved in the torture culture in Brazil. The book lists 444 torturers by name, as well as

... those who participated in arrests, roundups, and investigations; those who were in charge of investigations; the medical examiners ... doctors who participated in torture or signed death certificates ... collaborators and informers; members of repressive organizations, federal and state; those who acted as court recorders and stenographers ... judges in military courts.

(Quoted in Weschler 1990, 52)

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Torture cultures in both democratic and non-democratic states thus require political and legal support, public acquiescence, and the participation of military personnel, intelligence personnel, medical personnel, psychologists, and psychiatrists. The prominent role played by psychologists, the legal profession, and the medical profession in the creation of a torture culture is particularly striking. The complicity of the legal system cuts across all stages of the creation of a torture culture: from legal opinions authorizing the use of specific techniques (as we saw in the torture memos), to the creation of legal defenses available to military or intelligence personnel charged with torture, to legal proceedings that allow or rely on evidence gained under torture. The medical profession also plays a crucial part in legitimizing torture, by assisting in the illusion of professional, legitimate torture, and by providing services that are essential to the implementation of a torture culture, including falsifying death certificates, directly supervising torture victims, providing medical records to interrogators, and failing to report the use of torture (see e.g., Weschler 1990, 126–127). As we have seen, psychologists played a central role in research on torture techniques in the US in the 1940s and 1950s and designed and implemented the post-9/11 torture program (Mitchell 2016). Psychologists played a similarly important role in the formation of the torture culture that developed in Uruguay during the military dictatorship. The interrogation and imprisonment practices at Libertad prison in Uruguay, for example, were designed by psychologists to “demolish the mental, emotional, and moral integrity of [the] inmate populations” (Weschler 1990, 131), and psychologists and psychiatrists occupied important roles within the prison system.

Non-democratic and democratic torture cultures also have in common the creation of the image of the “good” torturer against whom “bad” torturers are unfavorably compared. I’ve already mentioned James Mitchell’s admiration for professionalism of the CIA interrogation program, but all torture cultures emphasize self-control, discipline, and professionalism as qualities of good torturers (Huggins 2000a; Wolfendale 2007, 177–182). This encourages the perception of torture as a legitimate tool for fighting threats to the state and enables individual torturers to reconcile their actions with their self-image as good people and dedicated military professionals.

Finally, all torture cultures exceed their initial boundaries. Torture victims are initially selected on the basis of some supposedly objective criteria (that they are terrorists, for example). But whatever initial constraints are placed on who may be tortured soon fall away. As we have seen, this occurred in the military dictatorships in Latin America (for example, in Argentina); it occurred in the torture cultures of ancient Greece, Rome, and Italy in the middle ages; and it occurred in the post-9/11 US torture culture. This is because the decision to use torture is a decision to reject any moral constraints on individual and state power. Torture is therefore always a form of tyranny, whether it occurs in a democratic or a non-democratic state.

## Conclusion

While torture is implemented in democratic and non-democratic states in very similar ways, democratic and non-democratic states utilize different narratives in order to rationalize and give meaning to the practice of torture. This chapter’s analysis of the differences between these justificatory narratives sheds light on the nature of democratic perpetrators and the unique ways in which liberal democracies attempt to resolve the tension between the use of torture and the commitment to liberal values. In addition, the analysis of democratic torture narratives offered in this chapter suggests at least two possible approaches to resisting such narratives that would benefit from further development. Firstly, given the central role played

by the military, legal, and medical professions in the implementation of torture, it is important to explore ways in which these professions could incorporate education about torture narratives into professional training, in order to mitigate the likelihood of such narratives being adopted and sustained within those institutions. Secondly, the use of the ticking bomb scenario in academic, legal, and popular debates about torture must be resisted. Such resistance could take the form of counter-narratives and of moral pressure on those who contribute to torture narratives. Arguably, opposing torture narratives could even be construed as a moral obligation on the part of those who are in a position to challenge torture narratives, given the extraordinary harm caused by torture.

## Notes

- 1 However, as I will explain, while the justificatory narratives for torture are different in democratic and non-democratic states, the torture programs that emerge are very similar.
- 2 The five techniques were hooding, sleep deprivation, food deprivation, noise bombardment, and forced standing (Conroy 2000, 6).
- 3 This memo defines torture less narrowly than the Torture Memo but states in a footnote that “we have reviewed this Office’s prior opinions addressing issues involving treatment of detainees and do not believe that any of their conclusions would be different under the standard set forth in this memorandum” (Cole 2009, 17–18).
- 4 Aditi Bagchi argues that torture is a state crime because the reasons underlying state use of torture are *not* reasons that reasonable constituents could endorse (Bagchi 2009, 26).
- 5 A person meets the criteria of general intent if she meant to perform the proscribed act in question and knew that she was performing the proscribed action. It does not require that she intended to bring about all the foreseeable consequences of the action.

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