Measuring Support for Torture

Do Americans support or oppose the use of torture? One might think we could find the answer by simply asking either that very question or one close to it. Indeed, such has been the strategy of numerous opinion polls taken since the “war on terror” began. As we shall argue, however, having an opinion about torture – one that researchers could reliably measure – involves a far more complex set of considerations than such a question can capture.

In this paper, we highlight some of the theoretical problems associated with measuring support for torture and propose an alternative method of asking questions to better understand the contours of that support. In the first section we examine existing survey questions and demonstrate the ways in which they fail to invoke several morally relevant factors that are likely to influence public opinion. In the second section we demonstrate how to overcome these failures, and then devise questions that would, in our estimation, elicit responses more indicative of respondents’ moral orientation toward torture. In the third section we present the results of a quite limited survey experiment that we conducted among undergraduates at our home institution. Our intention here is *not* to make any definitive or broad claims about the American view of torture, but merely to demonstrate how research toward that end might proceed. We conclude with a few reflections on directions for future work.

Part I: The Existing Questions

Surveys purporting to measure opinion on the use of torture commonly run into two sorts of problems. The first has to do with the fact that, as Richard Posner has put it, “[t]he word ‘torture’ lacks a stable definition,” (Posner 2004, 291) with the result that there is a good deal of ambiguity surrounding its meaning. The second has to do with a failure to provide respondents with an account of the context in which torture is to take place. We shall consider each problem in turn.

i. Defining torture

Understanding the conditions under which the public will support the use of torture requires a clear and uniform conceptual understanding of the term “torture.” In achieving that understanding, there are (at least) two obstacles to overcome: the diversity of opinion on interrogation techniques and ambiguity about the word itself. Consider first the techniques. The problem here comes with surveys that ask about particular interrogation techniques, as in “Do you feel it is right or wrong to subject prisoners to sleep deprivation?” Such questions will measure opinion *of the technique*, but that response will only capture opinion *on torture* where the survey respondent considers the technique *to be* torture – where, in other words, the respondent judges that the technique will elicit in the prisoner the subjective experience of being tortured. Unfortunately, from the question alone we have no way of knowing what judgment the respondent has made about the technique with respect to the effect it will have on the prisoner.

Consider, for example, the following question from a 2005 Gallup/CNN/ USA Today Poll:

Here is a list of possible interrogation techniques that can be used on prisoners. Do you think it is right or wrong for the U.S. government to use them on prisoners suspected of having information about possible terrorist attacks against the United States?

A. Forcing prisoners to remain naked and chained in uncomfortable positions in cold rooms for several hours

B. Having female interrogators make physical contact with Muslim men during religious observances that prohibit such contact

C. Threatening to transfer prisoners to a country known for using torture

D. Threatening prisoners with dogs

E. Strapping prisoners on boards and forcing their heads underwater until they think they are drowning

F. Depriving prisoners of sleep for several days

These questions ask respondents to reveal whether or not they feel that the U.S. government would be right or wrong to use these techniques. What they do not reveal are the grounds on which the respondents made those judgments, meaning that we do not know if torture was at issue. One could, for instance, morally object to item B (female interrogators making physical contact with Muslim men) on the grounds that people should never have their religious beliefs defiled. Such an objection, however, may have little or no bearing on the matter of torture. Likewise, one could claim that there is nothing wrong with item D (threatening prisoners with dogs), but of course the grounds for that judgment could be the prior judgment that it is not torture to be threatened by dogs. (It would potentially clarify matters if the technique were described as: “Threatening *canine-phobic* prisoners with dogs.”) And what are we to make of item C (threatening to transfer prisoners to a country known for using torture)? Are respondents reflecting the view that the threat of torture *is* torture?[[1]](#footnote-1) Does handing over a detainee to another party to be tortured absolve one of any culpability associated with torture? And how does the respondent feel about the acts that are considered torture in this other country? Is it some act akin to A, B, D, E, or F, or is it some act that will ensure that the recipient experiences anguish, agony and/or torment?

The bottom line is that this question alone – or others like it[[2]](#footnote-2) – cannot tell us anything about people’s opinions of acts they view as torture, or, as a result, about their opinion of torture itself.[[3]](#footnote-3) To know that, we would need to know if the respondents felt A-F were acts that would in fact induce upon the recipient the subjective experience of being tortured – that is, of anguish, agony and torment; what we shall hereafter denote as “extreme suffering.” Torture is the creation of a negative subjective state in another person – *whatever its cause* – not the interrogation technique that may, or may not, create such a state. Even where a technique elicits experiences *commonly viewed* as negative, such as pain, torture would not have occurred unless the person being subjected to the technique experienced it as negative. (Whipping a devotee of S & M may not prove an effective way of getting information.) If surveys are to measure opinion on torture, therefore, they must focus only on the detainee’s subjective experience rather than on the objective conditions that created it.[[4]](#footnote-4)

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The ambiguities discussed above are compounded in survey questions that use the word “torture.” Surveys referring simply to “torture” can be read in at least two ways: actions that cause extreme suffering on the part of the recipient (the concept we actually wish to measure) or the techniques widely discussed in the media – techniques, as we have seen, that may strike some respondents as *not* being torture in the first sense. As an example of how the word torture can be interpreted to mean different things by survey respondents, consider the following questions:

Just your best guess, do you think the U.S. government as a matter of policy is or is not using torture as part of the U.S. campaign against terrorism? *2005 ABC News/Washington Post Poll*

Do you believe that any prisoners captured in Iraq and Afghanistan have been tortured by Americans? *Harris Poll 4/20/05*

In your opinion, how often do the intelligence services of the United States participate in torture when interrogating suspected terrorists? *Harris Interactive 12/15/05*[[5]](#footnote-5)

These questions *would* measure people’s perceptions of whether torture was being used *if* the respondents read them in following manner (altering slightly the first question):

Just your best guess, do you think the U.S. government as a matter of policy is or is not utilizing techniques designed to make the victim experience extreme suffering as part of the U.S. campaign against terrorism?

There is nothing, however, to stop respondents from reading them in the following manner (as, it seems likely, some percentage of them would):

Just your best guess, do you think the U.S. government as a matter of policy is or is not using the techniques you have read about in the press as part of the U.S. campaign against terrorism?

As we have seen, what is at issue for many people is whether the techniques discussed in the media *are* in fact torture. Opinions vary widely here. Note, for instance, that the Bush White House position, famously articulated by the Office of Legal Counsel’s Deputy Assistant Attorney General John Yoo, used as a standard for torture the infliction of pain of the level associated with death and organ failure. While the standard has understandably incurred outrage,[[6]](#footnote-6) its mere existence demonstrates the wide divergence of opinion over what constitutes “torture.” If what we are after, however, are views on techniques in which the recipient experiences extreme suffering (i.e., techniques that the *recipient* experiences as torture), the only questions that will help us are those that actually spell that out explicitly. As we have just argued, respondents who believe that U.S. forces are, say, waterboarding detainees, but who do not feel that waterboarding is torture, will, in their responses, have indicated nothing about their opinion on torture.

Of course, perception that torture is happening is for the most part a lead up to moral judgments on what is perceived, and if the first part is ambiguous, so too will be the second part. Consider the next question from the same ABC News/Washington Post Poll:

Would you regard the use of torture against people suspected of involvement in terrorism as an acceptable or unacceptable part of the U.S. campaign against terrorism?

This question will measure views on actual torture if respondents read “torture” as “that which causes such extreme suffering.” If, however, they understand torture as, say, “techniques that various liberal human rights groups have labeled ‘torture,’” the question will more likely measure antecedently held ideological biases. Far better are the following consecutive questions from a CNN/ORC Poll:

In a procedure known as "waterboarding," interrogators produce the sensation of drowning in a restrained prisoner by either dunking him in water or pouring water over his face. Do you consider this procedure to be a form of torture, or not?

In a procedure known as "waterboarding," interrogators produce the sensation of drowning in a restrained prisoner by either dunking him in water or pouring water over his face. Do you think the U.S. government should or should not be allowed to use this procedure to attempt to get information from suspected terrorists?

Here we have a measure of what at least *some* respondents think about a government policy that, *in the respondents’ minds*, causes anguish in the recipient (and thus is torture). Unfortunately, as these two questions have been asked as Form A/Form B split samples, we cannot identify the proportion of the population that supports waterboarding even though they view it as torture (or the proportion that opposes waterboarding even though they do not view it as torture). Nor can these questions tell us what those who *did not* consider waterboarding to be torture think of interrogations that *would* involve (what *they* consider to be) torture.[[7]](#footnote-7)

ii. The context of torture

With this clarification of torture in mind, let us suppose from here on that survey respondents have been told that the word torture refers to an interrogation technique that will make the victim experience extreme suffering. Assume, in other words, that the respondent thinks he/she is being asked about acts that *he/she* considers torture. The issue to which we now move is how survey results could measure respondents’ actual moral positions with regard to that act. Let us begin with a question that would *not* tell us very much: “Do you approve of torture?” The problem with this question is that it lacks a context; it does not tell us anything about the circumstances under which torture is to be used. Without such a context – without knowing the reason for the torture – there is no actual way for respondents to have a meaningful judgment. Virtually no one, for instance, would approve of torture to satisfy the sadistic pleasures of interrogators – or so we hope. Torture is, after all, a moral wrong. The only issue is whether there exists a context – some countervailing moral consideration(s) – that might render that moral wrong morally justifiable. In this sense, torture is no different from punishment: everything from spanking to incarceration to execution is a moral wrong in the sense that there needs to be a justification in order to do it. Unlike other acts, such as smiling or greeting someone, a reason is required. What we want to know if we are truly to get a handle on people’s judgments about torture is: What reasons count? What context would make this presumptive moral wrong permissible? In order, therefore, to provide a meaningful measure of people’s acceptance of torture, we need a question in the form of “Would torture be acceptable in the following context…?” In responding, people would in effect be revealing the relative weight they give to the moral wrong of torture and the moral right presented by “the following context.” It is this relative weight that reveals the perceived permissibility of torture.[[8]](#footnote-8)

We are not suggesting here that all moral reasoning involves calculating costs and benefits in some consequentialist fashion. How people arrive at moral judgments is not our concern.[[9]](#footnote-9) It is the judgments themselves that interest us, and as such we must focus on the *object* of those moral judgments; on what they are looking *at*. To say that they are simply looking at torture is misleading. They are looking at torture *in a context*; their judgment is about an entire array of circumstances. To be sure, torture lies at the center of those circumstances, but it is still only a part of them. As such, every change in the context involves a change in the object of moral deliberation. This fact is no less true for virtue ethicists or strict deontologists than it is for consequentialists. People might not, in some cost/benefit manner, literally weigh torture against the moral good presented in the context, but they must surely factor that good into their thinking such that they view torture in context A as being morally different from torture in context B (even in cases where they render the same moral judgment).

Of course, survey questions do provide the respondent some contexts. The problem lies in the fact that those contexts rarely present conceptually illuminating moral choices. Consider the following question from numerous Pew Research Center Polls:[[10]](#footnote-10)

Do you think the use of torture against suspected terrorists in order to gain important information can often be justified, sometimes be justified, rarely be justified, or never be justified?

At first glance, respondents are being asked to weigh the moral wrong of torture against the moral right of gaining important information (using a fairly standard type of survey question) – precisely the sort of judgment we are hoping to measure. Unfortunately, such a straightforward judgment is clouded on a number of levels. First off, respondents are asked to presuppose something that goes to the heart of the moral conundrum; namely that torture *achieves* the objective for which it is utilized. In the real world, of course, no such certainty exists. In fact, there are reasons to believe that torture is actually quite an inefficient means of extracting information, and that it “tests endurance rather than veracity.” (Langbein 2004, 96)[[11]](#footnote-11) Regardless of what the actual efficacy of torture is, there is a vast difference between asking about committing a moral wrong in order to achieve a moral good, and asking about committing a moral wrong *in the hope of* achieving a moral good. As the latter formulation captures the real life situation, we need, if we wish to capture popular opinion about *actual* torture, to provide respondents with some knowledge about the connection between torture and the competing moral good: Does torture provide a reasonable expectation of achieving that good? What is the likelihood? Questions that simply collapse the distinction between the technique and its intended goal do not measure anything of interest about the moral dilemma of torture as it exists in the real world.

The efficacy of torture techniques is not the only factor clouding the respondents’ ability to make moral judgments. Do they know, for example, what the likelihood is that the suspect *has* any information? And even if *he* thinks he has it, do the respondents have reason to believe the suspect is correct in that belief?

There is, of course, an even more glaring problem here, one illustrated by the following question from the 2006 Cooperative Congressional Election Study (CCES):

Some people say that torture is immoral and the United States should abide by the United Nations Convention Against Torture and never torture prisoners. Other people want to leave open the option of torturing suspected terrorists in order to extract information and prevent future attacks. How about you – do you think the United States is ever justified in torturing prisoners?

The key words here – as with the earlier questions – are “*suspected* terrorists” and “prisoners.” By definition, neither group *are* terrorists. They *may* be terrorists, but the question reveals their status to be ‘suspected of it’ or ‘imprisoned awaiting that adjudication.’ As such, respondents will need information about the case against these individuals in order to judge whether they would be the sort of people who might have information. Of course, in that event, the question will have drifted a long way from being about *just* torture, as the respondents’ moral judgments will have been muddied by considerations of a penal system in which due process is nonexistent and guilt rather than innocence is assumed. In other words, against the moral good of preventing future attacks, they now must weigh not just the moral wrong of torturing “bad guys,” but also the *possible* moral wrong of torturing *good* guys and the *certain* moral wrong of subverting the rule of law (*beyond* the subversion that torture itself implies), not to mention the presumption of innocence.

Thus far, then, we see that even if we assume that torture techniques are effective, there are still two conditions that need to be met before a survey question would actually tell us much about the acceptance of torture: we need to know the degree of certainty (on the part of officials) that the suspected terrorists/prisoners *are* terrorists, and we need to know how likely it is that torturing these individuals will yield information. In other words, we need to know whether they are terrorists *with* the information we want *and* terrorists who might provide it under torture.[[12]](#footnote-12)

Unfortunately, clarifying those issues will only take us so far, for there is still the matter of the information to be extracted. There are at least two issues here. To illustrate the first, consider how this question from a CBS News/New York Times Poll[[13]](#footnote-13) differs from the preceding one:

“Do you think it is sometimes justified to use torture to get information from a suspected terrorist, or is torture never justified?”

This question differs from the previous one in its omission of the modifier “important.” With the previous question we could at least presume that the information was more vital than name, rank and serial number. We could presume, in other words, that the countervailing moral good was not trivial. Yet without a concrete measure of importance, what are we to presume in this regard? Moreover, even the inclusion of the modifier offers little guidance, for while it may imply something well beyond name, rank and serial number, it may also imply a level of importance at which we lapse back onto a truism; that is, where the information is of such a vital nature that it would, on any reasonable person’s judgment, exceed the importance of the victim’s suffering. At this level the question becomes a test of the respondent’s logic (or perhaps, as Gronke et al. (2010) suggest, her patriotism), but not of his or her moral bearings. To find the latter, we need to know *at what point* the information’s importance exceeds the importance of the victim’s suffering. The respondents’ threshold lies somewhere between the gratuitousness implied where the information is about name, rank and serial number and the truism implied where the information is with respect to an attacking resulting in the slow painful death of millions – *but where*? That is the crux of what we want to know, yet the question does not get us there because it offers the respondents no guidance.[[14]](#footnote-14)

Of course, some questions do offer guidance, but often that guidance is illusory. A Fox News survey (3/14/02 and 3/14/03) asked respondents whether they would support using “any means necessary, including physical torture, to obtain information from prisoners that would protect the United States from future terrorist attacks.” If we look beyond the fact that the torture is presumed to be successful, we see that, for one of two reasons, the context cannot reveal very much: either respondents will read “future terrorist attacks” as a context so catastrophic as to render judgments about torture trivial, or, because they will be unclear on precisely how to interpret the severity of “future terrorist attacks,” it will be impossible from their responses to judge how permissible torture is to them. In either case, because *we* – people interpreting the results – will not know whether the respondents viewed the context as catastrophic or ambiguous, the responses will themselves be ambiguous.

The second issue pertaining to information concerns the link between it and the good that we hope to bring about. Even if respondents are to assume that torture *will* yield information and that the information *is* objectively important, there is still the matter of how that information is to be used. After all, no matter how important, the information *itself* is not the moral good in question. That status belongs to the end (the saving of countless lives, national security[[15]](#footnote-15)) that the information may – *or may not* – be useful in bringing about.

What we see as we look closely at the context of torture is that the moral good that may or may not justify it rests for its realization on a number of factors: we have to have an actual terrorist; that terrorist has to have real information (and not merely think that he does); torture has to be an effective tool in getting him to reveal this information; the information in turn has to be helpful in bringing about the moral good. In order to provide a meaningful response to the question of whether torture justifies a particular moral good, respondents would need to know something about the likelihood of these temporally intervening factors. Moreover, they would also need to know something about the *dimensions* of the temporal sequence. There is a difference between a terrorist attack that is imminent (the famous “ticking time bomb”) and one that we have reason to believe will happen in six to eight months, and both scenarios differ from the more likely one, namely where officials are uncertain of the timeframe. The differences here speak directly to the issue of what the justifiable responses are. Even if we presume torture to be effective in extracting information, the possibility of using less morally problematic yet more time consuming alternative techniques (broadly speaking, using carrots instead of sticks) would surely alter the context in which respondents are asked to make judgments. (Of course, the comparative efficacy of alternative methods of interrogation is, in reality, *always* a relevant matter in making moral judgments about torture, and yet it is another bit of context that is almost always ignored in survey questions.)

Part II. Devising Effective Questions

We may, at this point, summarize the requirements for meaningful measures of opinion on torture:

* R1: Questions must refer to actions that respondents will recognize as torture (“extreme suffering”).
* R2: Questions must present participants with contexts that present clearly what might be gained from torture.

Satisfying R1 is relatively straightforward. Questions need to make clear that at issue are interrogation techniques “designed to make the victim experience extreme suffering (of body or mind).” This wording avoids capturing opinions on particular interrogation techniques and gets away from ambiguous interpretations of the word torture. Respondents must address any and all practices that result in detainees experiencing what, *to the detainees*, would be torture.

R2 is somewhat less straightforward. As there are an infinite number of empirical[[16]](#footnote-16) contexts in which torture could occur, each with its own countervailing moral good,[[17]](#footnote-17) it would be impossible with any one question to know on which characteristics respondents were focused. Thus we can measure support for torture in a particular context, but unless we take certain precautions, we will not know what it is about that context that explains the responses we get. Complicating the matter is the fact that the empirical contexts we offer can never completely account for the nature of the moral good. To see why, consider the matter of ancillary effects: torture might yield important information that allows us to avert a catastrophic loss of life, but it may in the process also degrade the U.S.’s reputation in the world to such an extent that the likelihood of future such events markedly increases. Or perhaps the use of torture would serve as a deterrent to terrorists and thereby *diminish* the likelihood of future attacks. More immediately, as John McCain and others have pointed out (McCain 2004), it may undermine the U.S.’s ability to apply pressure on other nations to cease practicing it (in some cases on Americans).[[18]](#footnote-18) Finally (but not exhaustively) it could weaken social inhibitions against its more general acceptability – with the result that torture in the future will be increasingly likely – or undermine the credibility and reputation of the medical profession, the scientific establishment, police forces, the military, or, for that matter, the entire legal structure.[[19]](#footnote-19)

All such ancillary factors change the nature of the moral good: we may achieve our immediate objective, but we may in so doing also bring about conditions that undermine or perhaps promote our long-term interests. The *true* moral good, then, is the good we hope for *plus* *or minus* those other effects (meaning that on balance, it may no longer be a good). The problem is not that we can never fully account for all the ancillary effects (although it is certainly true that we could not). The problem comes in determining which if any of these ancillary factors respondents might have in mind in reacting to a given context,[[20]](#footnote-20) and, as a result, determining how they are perceiving the moral good against which torture is being weighed.[[21]](#footnote-21)

The task, then, is to render the background considerations irrelevant. After all, to say that respondents import assumptions about aspects of reality that exist beyond those we specify is merely to state an inescapable fact about moral reasoning. Yet nothing about that fact prevents us from measuring the importance that people attribute to any particular factor. If we can isolate those factors and measure in turn the importance of each, we can, in piecemeal fashion, construct an overall picture of the moral good required to offset the moral wrong of torture. By picture we do not mean one scenario; we mean an understanding of the relative weight people put on the factors that – *together* – describe *any* scenario.

So how do we do isolate any individual factor? We do so by asking pairs of questions that differ only with respect to that factor. For instance, we could, by asking respondents to indicate their level of (dis)agreement with the following two statements, measure the effect that the timeframe of the threat has on opinion:

1. The U.S. government would be morally justified in subjecting known terrorists to interrogation techniques designed to make the victim experience extreme suffering (of body or mind) if officials knew, with a high degree of certainty, that these individuals had knowledge of a terrorist attack on American soil that was to occur 48 hours from now.
2. The U.S. government would be morally justified in subjecting known terrorists to interrogation techniques designed to make the victim experience extreme suffering (of body or mind) if officials knew, with a high degree of certainty, that these individuals had knowledge of a terrorist attack on American soil that was to occur six months from now.

Because the only difference between the statements concerns the timeframe, we effectively hold constant (by reducing to background noise) all concerns not related to it,[[22]](#footnote-22) and, in the process, gain an understanding of how significant this factor is in people’s moral considerations.

The next step is to see how this significance compares with that of another factor; say, the certainty we have that the person being interrogated has the information we seek. Here we could ask about (dis)agreement with the following two statements:

1. The U.S. government would be morally justified in subjecting known terrorists to interrogation techniques designed to make the victim experience extreme suffering (of body or mind) if officials knew, with a high degree of certainty, that these individuals had knowledge of a terrorist attack on American soil that was to occur 48 hours from now.
2. The U.S. government would be morally justified in subjecting known terrorists to interrogation techniques designed to make the victim experience extreme suffering (of body or mind) if officials suspected that these individuals might have knowledge of a terrorist attack on American soil that was to occur 48 hours from now.

Note that we have given no information about many crucial variables (How sure are we that the information will lead to stopping the attack? How catastrophic would the attack be?), and that as a result, respondents may very well make assumptions about them. Note also, however, that those assumptions would be constant across both questions,[[23]](#footnote-23) and that, as a result, the different levels of support for these two statements would tell us only about the significance of certainty in people’s moral considerations.

In comparing the results of these two sets of questions, we gain an understanding of the relative importance people ascribe to these two factors – we see, in other words, their relative weight in the moral judgment about torture. If to this small piece of the puzzle we were to add others (a task beyond the scope of this paper), the contours of the moral good required to justify torture will slowly emerge.

We emphasize the word “slowly.” A full understanding of opinion on torture would require the isolation of numerous factors. What follows, then, should not be taken as anything more than an effort to illuminate our methodological points by, in effect, putting them into practice. What substantive conclusions we offer are intended merely as examples of the type of knowledge we stand to gain if future research, using larger and less convenient samples, is conducted along the lines we suggest.

Part 3: Survey Experiment

In November of 2012, we conducted a survey experiment with undergraduates at [a large public university]. Students took a survey covering a range of social and political topics in exchange for extra credit in an introductory political science class. In this experiment, subjects were randomly assigned to receive one of three different survey questions. These questions were designed to directly measure beliefs about the moral permissibility of torture within specified contexts. By comparing responses across these questions, we can begin to better understand how context affects moral judgments.

More specifically, we used the three questions discussed in the previous section as the basis for our experiment. To avoid question-order effects, subjects were randomly assigned to receive one of three different questions. In the first condition, subjects were asked (on a 7-point scale) the extent to which they agreed or disagreed with this statement:

The U.S. government would be morally justified in subjecting known terrorists to interrogation techniques designed to make the victim experience extreme suffering (of body or mind) if officials knew, with a high degree of certainty, that these individuals had knowledge of a terrorist attack on American soil that was to occur 48 hours from now.

In the other two conditions, subjects were asked versions which loosen either the certainty that the known terrorists possess information about an attack on American soil (while holding the timeframe constant) or by lengthening the time horizon from 48 hours to six months (while holding the level of certainty constant).

The results provide strong evidence that both of our contextual factors significantly (and independently) weigh into moral judgments about torture. As Figure 1 demonstrates, overall support under the first condition—where an attack is to occur in 48 hours and there is a “high degree of certainty” that the terrorist has knowledge that could prevent the attack—is relatively high, with a mean response of 4.42. (Possible responses range from 1, “strongly disagree,” to 7, “strongly agree.”) In the second condition—where it is merely “suspected” that the terrorist “might” have knowledge of an attack that is to occur within 48 hours—the mean level of agreement dropped to 4.095. This statistically significant (p=.0071) decline in support from the first to second condition suggests that respondents’ moral judgments were influenced by the level of (un)certainty they had that the person to be tortured is actually in possession of information that could prevent an attack. As for the third condition—where the attack is to occur “six months” (rather than 48 hours) “from now” and, as with the first condition, there is a “high degree of certainty” that the terrorist has knowledge that could prevent the attack—the mean level of agreement was 4.11, which was statistically equivalent to the second condition (p=.8958) and also a statistically significant decline from the first (p=.0099). Thus, it appears not only that the imminence (or lack thereof) of an attack weighed into respondents’ moral assessments of torture, but also that respondents gave this factor essentially the same weight as the level of certainty that a detainee has information that can prevent a terrorist attack. Although, as discussed above, we had good theoretical reason to suspect that these factors influence torture support—and, thus, that they ought to be accounted for when trying to accurately measure that support—it is an unexpected finding that respondents place equal weight on both factors.

- Insert Figure 1 here -

There are several additional tentative inferences we can make from these results. First, people *are* sensitive to context. Because support goes down as the context of certainty of the detainee having information or the immediacy of a future attack changes, we infer that people appear to understand that torture without justification is a moral wrong (or at least “wronger,” as support for torture does remain somewhat high even among the experimental groups). Thus we believe that people are engaging in a moral calculation. Another inference, though admittedly slightly more distant from the data, is that people believe that torture is an effective means of extracting information. While this is a premise that is more or less built into the question, the fact that support for torture is affected by context strongly implies that, on average, people believe that torture can be effective means of loosening the tongues of terrorists. This juxtaposition—indirect evidence that people believe torture is effective but are less willing to justify its use without certainty that a target has information and an immediate need for that information—is perhaps the most interesting aspect of citizen attitudes towards torture.

The data from such surveys can readily be disaggregated with respect to any number of demographic features. For example, as Figure 2 illustrates, Republicans (and “Others,” including, especially “Independents”) and Democrats show equivalently strong support for torture under the first condition (p=.617), but, unlike with Democrats, Republican support for torture did not significantly drop in the move from the first to the second (p=.391) or first to third (p=.552) conditions. For Democrats, by contrast, support *plummeted* when shifting from the first to the second (p=.005) and third (p=.002) conditions. More specifically, Democratic support declined from 4.39 in the first condition to 3.96 and 3.91 under the second and third conditions, respectively, while Republican support barely budged between the first (4.47), second (4.3) and third (4.36) contextual conditions. Thus, what we have said regarding the nature of moral reasoning about torture in general appears to apply disproportionately, if not almost exclusively, to Democrats (a finding that builds upon previous studies (Malka & Soto 2011; Mayer & Armor 2012) which have demonstrated significant partisan differences in attitudes toward torture). Republicans and Democrats differ not simply in their general attitudes toward the use of torture; they seem to have different understandings of what factors are morally relevant in particular contexts. Whether this is a case of partisan attachment influencing moral judgments or of differences in moral orientations influencing party identification (or both) is an open question we leave for future research.

- Insert Figure 2 here -

Part 4: Conclusion

To reemphasize our earlier disclaimers, the aspect of these results that is of the greatest importance has less to do with their substance than it does with the form that they take – or begin to take. Our thesis has been that understanding opinion on torture requires understanding how people gauge the moral wrong involved in comparison with any potential benefits that torture might achieve. The substantive results we present here are obviously limited: timeframe and certainty are merely two of myriad considerations and thus can only capture a small slice of opinion on torture. This point is crucial: people may respond to individual factors in intuitively predictable ways, but what is *not* predictable, and what future research stands to tell us, is the relative weight of those predictable responses. It is this comparative judgment about factors such as timeframe and certainty that holds the key to public opinion on torture. We can report that, to varying degrees, our limited sample did view timeframe and certainty as goods that counterbalance the wrong of torture, and that the effect of those two variables was roughly equal. That result, however, is only a beginning.

The next step is to measure other factors. As we have suggested, there is no shortage of relevant ones to consider: How many deaths must torture avert? Does the nationality of the potential terrorist victims matter? Does their status (e.g., military versus civilian) matter? In each case, surveys could pose pairs of questions that isolate these factors in a manner similar to the one we have employed, and, in so doing, gauge their *relative* impact on people’s judgments (as in “people seem *more* concerned about the timeframe of a threat than with the number of potential victims, but *less* concerned than…”). The goal of such research is to gain a robust understanding of the contexts that are apt to elicit support for torture – precisely what, as we have argued, we mean when we refer to the American view of torture.

**Works Cited**

Aristotle. 1941. “Rhetorica.” In *The Basic Works of Aristotle*, 1377. Random House.

Berman, Mitchell N. 2008. “Punishment and Justification.” *Ethics* 118 (2) (January): 258–290.

Bufacchi, Vittorio, and Jean Maria Arrigo. 2006. “Torture, Terrorism and the State: a Refutation of the Ticking‐Bomb Argument.” *Journal of Applied Philosophy* 23 (3) (August 1): 355–373. doi:10.1111/j.1468-5930.2006.00355.x.

Cole, David. 2010. “They Did Authorize Torture, But...” *New York Review of Books*, April 8.

Elshtain, Jean Bethke. 2004. “‘Reflection on the Problem of “Dirty Hands.”’” In *Torture: A Collection*, edited by Sanford Levinson, 77–89. Oxford University Press, USA.

Gronke, Paul, Darius Rejali, Dustin Drenguis, James Hicks, Peter Miller, and Bryan Nakayama. 2010. “U.S. Public Opinion on Torture, 2001–2009.” *PS: Political Science & Politics* 43 (03): 437–444. doi:10.1017/S1049096510000697.

Gudjonsson, Gisli. “The Psychology of Interrogations and Confessions: A Handbook.” *Barnes & Noble*.

Ignatieff, Michael. 2005. “‘Moral Prohibition at a Price’.” In *Torture: Does It Make Us Safer? Is It Ever OK?: A Human Rights Perspective*, edited by Kenneth Roth and Minky Worden, 20–27. New Press, The.

Langbein, John. 2004. “‘The Legal History of Torture’.” In *Torture: A Collection*, edited by Sanford Levinson, 93–103. Oxford University Press, USA.

Malinowski, Tom. 2005. “Banned State Department Practices.” In *Torture: Does It Make Us Safer? Is It Ever OK?: A Human Rights Perspective*, edited by Kenneth Roth and Minky Worden, 139–144. New Press, The.

Malka, Ariel, and Christopher J. Soto. 2011. “The Conflicting Influences of Religiosity on Attitude Toward Torture.” *Personality and Social Psychology Bulletin* 37 (8) (August 1): 1091–1103. doi:10.1177/0146167211406508.

Mayer, Jeremy D., and David J. Armor. 2012. “Support for Torture over Time: Interrogating the American Public About Coercive Tactics.” *The Social Science Journal* 49 (4) (December): 439–446. doi:10.1016/j.soscij.2012.10.001.

McCain, John. 2004. “Respecting the Geneva Conventions.” *Wall Street Journal*, June 1.

Nincic, Miroslav, and Jennifer Ramos. 2011. “Torture in the Public Mind.” *International Studies Perspectives* 12 (3): 231–249. doi:10.1111/j.1528-3585.2011.00429.x.

Posner, Richard. 2004. “‘Torture, Terrorism and Interrogation’.” In *Torture: A Collection*. Vol. Posner. Oxford: Oxford University Press.

Ross, James. 2005. “A History of Torture.” In *Torture: Does It Make Us Safer? Is It Ever OK?: A Human Rights Perspective*, edited by Kenneth Roth and Minky Worden, 3–17. New Press, The.

Roth, Kenneth. 2005. “Justifying Torture.” In *Torture: Does It Make Us Safer? Is It Ever OK?: A Human Rights Perspective*, edited by Kenneth Roth and Minky Worden, 184–201. New York: New Press, The.

Shue, Henry. 1978. “Torture.” *Philosophy & Public Affairs* 7 (2) (January 1): 124–143.

Soufan, Ali H. 2009. “What Torture Never Told Us.” *The New York Times*, September 6, sec. Opinion. http://www.nytimes.com/2009/09/06/opinion/06soufan.html.

**Figure 1: Mean Agreement with Statement that U.S. would be “Morally Justified” in Subjecting “Known Terrorists” to “Extreme Suffering” under Three Contextual Conditions**

Possible survey responses range from 1 (strongly disagree) to 7 (strongly agree). Result of t-test for difference of means between Question 1 and Question 2 is statistically significant (p=.0071) as is the t-test for difference of means between Questions 1 and 3 (p=.0099). The means for Questions 2 and 3 are not statistically distinguishable (p=.8958).

**Figure 2: Partisan Differences in Responsiveness to Contextual Conditions**

Two sample t-test for difference of means between R1 (i.e. Republican respondents answering Question 1) and D1 (i.e. Democrat respondents answering Question 1) indicates that they are statistically indistinguishable (p=.617). Furthermore, there is no statistically significant difference between R1 and R2 (p=.391) or between R1 and R3 (p=.552). However, the following differences are statistically significant: R2-D2 (p=.05), R3-D3 (p=.007), D1-D2 (p=.005) and D1-D3 (p=.002).

1. When the threat is not to the victim, but to his or her family, it *is*, according to the U.S. Senate’s definition, torture. See (Ignatieff 2005, 21) [↑](#footnote-ref-1)
2. An ABC News/Washington Post Poll of May, 2004 asked about support for the following practices: “not allow sleep,” “withhold food/water,” “hold suspect naked,” “electric shocks,” “threaten family,” “loud noises,” “threaten shooting,” “hood over head,” “sexual humiliation,” “extreme heat/cold,” “punching/kicking” and “”holding head under water.” The problem here is the same: we do not know the grounds on which respondents answered the overriding question: “Is this technique acceptable?” [↑](#footnote-ref-2)
3. It would, of course, be straightforward to *infer* meaning from the responses where the technique is so extreme as to almost certainly constitute torture for anyone. [↑](#footnote-ref-3)
4. This subjective standard will be rejected by those who insist that distinctions can and must be made. Elshtain, for instance, argues that “when human rights groups label ‘unpleasant or disadvantaged treatment of any kind’ torture, they do a disservice to the complexity of the matter…and, ironically, by failing to distinguish between sleep deprivation and amputation or burning or some other horror, they elevate the former and diminish the latter.” (Elshtain, Jean Bethke 2004, 86) As Malinowski argues, however, “[a]nyone who has worked with torture victims knows that [benign sounding non-physical techniques] can be as cruel as those involving physical violence…As for sleep deprivation, consider former Israeli prime minister Menachem Begin’s account of experiencing it in a Soviet prison in the 1940s: ‘Anyone who has experienced this desire [for sleep] knows that not even hunger or thirst are comparable with it.’” (Malinowski 2005) [↑](#footnote-ref-4)
5. Similar questions include “Do you believe that any prisoners captured in Iraq and Afghanistan have been tortured by Americans?” (*Harris Poll 4/20/05*)and “In your opinion, how often do the intelligence services of the United States participate in torture when interrogating suspected terrorists?” (*Harris Interactive 12/15/05*) [↑](#footnote-ref-5)
6. The standard, after all, presents a retreat even from many 16th century norms: Joost Damhouder’s 1554 advice to the “Good Judge” insisted that “all must be done with such care and moderation that the patient be neither driven mad, wounded, hurt nor unduly distressed.” (Ross 2005, 9) Perhaps the most trenchant critique of the standard is David Cole’s observation that it “is literally meaningless, as neither death nor organ failure are associated with any particular level of pain.” (Cole 2010) [↑](#footnote-ref-6)
7. Because the questions are with reference to a particular act, we do at least know that people have in mind torture as the creation of extreme suffering, and not as techniques discussed in the media. [↑](#footnote-ref-7)
8. Cf. Berman 2008 [↑](#footnote-ref-8)
9. For an examination of the ethical reasoning people employ when judging torture, see (Nincic and Ramos 2011) [↑](#footnote-ref-9)
10. PSRAI/Pew Poll # 2004-07FP: Foreign Policy and Party Images, July 8-18, 2004; Pew Research Center/The Council on Foreign Relations Poll: America's Place in the World IV, October 12-24, 2005; Pew Research Center Poll: Early October 2006 Turnout Survey, September 21-October 4, 2006; Pew Research Center Poll # 2008-02POL: February 2008 Political Survey—2008 Presidential Election, February 20-24, 2008; Pew Research Center: April 2009 Values Survey, March 31-April 6, 2009 and April 14-21, 2009. [↑](#footnote-ref-10)
11. Cf. (Gudjonsson) (Cole 2010) (Soufan 2009) The debate, of course, has a long lineage, dating back at least as far as Aristotle, who proclaimed that “people under [torture’s] compulsion tell lies quite as often as they tell the truth, sometimes persistently refusing to tell the truth, sometimes recklessly making a false charge in order to be let off sooner.” (Aristotle 1941, 1377) [↑](#footnote-ref-11)
12. The simplification and distortion of reality is not unique to opinion surveys; they also afflict philosophical discussions. With respect to the latter, Shue correctly observes “how unlike the circumstances of an actual choice about torture the philosopher’s example is. The proposed victim of our torture is not someone we suspect of planting the device; he *is* the perpetrator. He is not some pitiful psychotic making one last play for attention; he *did* plant the device. The wiring is not backwards, the mechanism is not jammed: the device *will* destroy the city if not deactivated.” (Shue 1978, 142) Likewise, Roth point out that “Interrogators hardly ever learn that a suspect in custody knows of a particular, imminent terrorist bombing. Intelligence is rarely if ever good enough to provide such specific advance warning, let alone to demonstrate a particular suspect’s knowledge of an imminent attack.” (Roth 2005, 197) [↑](#footnote-ref-12)
13. Poll # 2006-09A: Congressional Elections/Political Parties/Terrorism/Middle East/Finances, September 15-19, 2006 [↑](#footnote-ref-13)
14. There is also the issue of importance *to whom*. There is a difference between asking respondents to presuppose that the information is *objectively* important – in other words, that we know this fact about it – and leaving open the issues of *to whom* is it important and whether, whomever it is, we respect their judgment of such matters. [↑](#footnote-ref-14)
15. In the modern American context, defenses of torture have consistently been limited to national security concerns and never to merely judicial ones – no one has suggested that information gained under torture be admissible in court. [↑](#footnote-ref-15)
16. We are only concerned with contexts that provide a factual scenario from which respondents are to judge the acceptability of torture, and not contexts that provide moral cues by prodding the respondent to consider torture within a certain moral framework. An obvious example of the latter is CCES question discussed above: “Some people say that torture is immoral and the United States should abide by the United Nations Convention Against Torture and never Torture prisoners. Other people want to leave open the option of torturing suspected terrorists in order to extract information and prevent future attacks. How about you – do you think the United States is ever justified in torturing prisoners?” While interesting and informative, research using questions that provide moral cues get away – by design – from the measurement of moral intuitions. To inform a respondent that “practice X is widely abhorred” before asking, “What do you think of practice X?” is a good way to measure the effect of the moral cue, but it precludes our knowledge of un-cued moral intuitions. [↑](#footnote-ref-16)
17. These countervailing goods will be the product of at least three variables: the weight of the good (crudely, how good is it?), the likelihood of achieving it via torture, and the timeframe of the good (if the good is thwarting a threat, how immediate is the threat?)? Moral goods could be, among other things, stopping catastrophic threats, gaining general knowledge of terrorist organizations, finding the location of terrorist leaders. Factors determining the likelihood of bringing about any good via torture include all the aforementioned levels of (un)certainty at each step of the process between torture and the attainment of the good. Timeframes are everything from the immediate to some remote and vaguely defined future. [↑](#footnote-ref-17)
18. To quote Malinowski: “Sure, State Department officials can continue to urge Saudi Arabia and Egypt and Algeria to treat people humanely, but when the governments of these countries can quote U.S. government memoranda to defend their brutal actions, what can an American diplomat say in response?” (Malinowski 2005, 141) Malinowski’s chart “Torture Techniques Approved by the United States While Condemned in other Countries” (pp. 142-144) is particularly illuminating. [↑](#footnote-ref-18)
19. See Bufacchi and Arrigo 2006, 362 for a discussion of these factors. [↑](#footnote-ref-19)
20. See Nincic and Ramos 2011, 238–9 for a detailed account of the unstated factors behind the ticking time bomb scenario. [↑](#footnote-ref-20)
21. The effect of unstated assumptions about ancillary effects is no different from that of unstated facts about the context itself. Opinion surveys rarely mention, for example, that torture is illegal or that alternative interrogation techniques are available, and yet we can presume that some responses will reflect concerns over such matters while others will not. [↑](#footnote-ref-21)
22. Obvious examples would include the legality of torture, its efficacy, and the magnitude of the threat to American security. [↑](#footnote-ref-22)
23. We could hold them constant either by asking all respondents both questions, or by asking each question of a group sizable enough such that we could assume the assumptions were the same on both sides. [↑](#footnote-ref-23)