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Ethical considerations on the complicity of psychologists and scientists in torture

Abstract

Introduction

The longstanding debate on medical complicity in torture has overlooked the complicity of cognitive scientists—psychologists, psychiatrists, and neuroscientists—in the practice of torture as a distinct phenomenon. In this paper, we identify the risk of the re-emergence of torture as a practice in the US, and the complicity of cognitive scientists in these practices.

Methods

We review arguments for physician complicity in torture. We argue that these defenses fail to defend the complicity of cognitive scientists. We address objections to our account, and then provide recommendations for professional associations in resisting complicity in torture.

Results

Arguments for cognitive scientist complicity in torture fail when those actions stem from the same reasons as physician complicity. Cognitive scientist involvement in the torture program has, from the outset, been focused on the outcomes of interrogation rather than supportive care. Any possibility of a therapeutic relationship between cognitive therapists and detainees is fatally undermined by therapists' complicity with torture.

Conclusion

Professional associations ought to strengthen their commitment to refraining from engaging in any aspect of torture. They should also move to protect whistleblowers against torture programs who are members of their association. If the political institutions that are supposed to prevent the practice of torture are not strengthened, cognitive scientists should take collective action to compel intelligence agencies to refrain from torture.

Introduction

Over the last two years the US Government has made a series of decisions that in the eyes of many raise the possibility that torture—or the Orwellian euphemism "enhanced interrogation techniques" (EIT)—will again be used as a US counterterrorism strategy. By torture, we use the definition provided by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:

> *Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from them or a third person information or a confession; or punishing them for an act they or a third person has committed or is suspected of having committed, or intimidating or coercing them or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity* [1].

The use of torture is commonly understood to coincide with intelligence collection efforts, though the practice of torture need not be, by definition, an act of intelligence collection. Torture is also popularly understood in the context of the CIA's action, but may also occur in domestic law enforcement situations: the practice of solitary confinement is understood to constitute torture under the Convention, including when it is used in domestic correctional settings.

The possibility of the return of torture to U.S. interrogation practices was first raised through the release of executive orders (EOs) in 2017 recommending that the Central Intelligence Agency (CIA) revisit the use of international, extrajudicial detention facilities (better known as "black sites"). In 2018, the U.S. Senate confirmed Gina Haspel, who oversaw torture of detainees in South East Asia, to the position of the Director of the CIA[2]. Finally, there have been reports that former interrogators for the CIA have been employed to train agents in the Immigration and Customs Enforcement (ICE) Agency, in the detention of alleged undocumented immigrants and asylum seekers [3].

Torture in the twenty first century, moreover, is a medicalized affair. Revelations from Abu Ghraib showed that physicians were complicit and at times directly involved with the torture of detainees [4]. In 2015, revelations that psychologists—including the American Psychological Association's former Ethics Director, Steven Behnke—were complicit in the development and implementation of torture implicated psychologists alongside physicians. This admission foregrounds a broader trend in neuroscience and cognitive science toward counterterrorism applications, including so-called "behavior modification" applications on detainees [5].

The involvement of physicians in torture raises two key ethical issues, which have received attention in the larger treatment of torture in the context of the War on Terror. The first is the "dual-loyalties" challenge, in which a clinician has a loyalty to their patients and profession, while simultaneously being a member of the military (or national security establishment, broadly defined). The former loyalty entails *pro tanto* duties to refrain from acting without the consent of the patient, and to refrain from harming the patient in ways that hold no commensurate

therapeutic benefit. The latter loyalty, however, entails a duty to perform actions that secure a nation against hostile actors, which may include involvement with detainees subject to EIT or torture.

The second issue that arises is the problem of "dirty hands," which appears in the context of violating moral constraints in order to achieve some great good or prevent great harm [6,7]. In the case of torture, dirty hands might arise for a physician involved in the practice of torture as a means to avoid some great harm (e.g. the deployment of a weapon of mass destruction). Alternately, it might arise in the context of involving oneself in the institution of torture in order to save the life of a detainee, by providing supportive care to ensure the detainee does not die of injuries incurred due to the torture. Finally, dirty hands may arise in the course of fulfilling legitimate duties such as instructing or participating in Survival, Evasion, Resistance, and Escape (SERE) training of a nation's military, while risking complicity in the torture activities of that same nation [8].

Since 2003, these topics have received attention from the biomedical and larger philosophical literature on the specific question about whether physicians should involve themselves with torture or contribute to activities that enable the practice of torture [9-11]. The two concerns intersect around arguments that defend the presence of physicians in torture, even when we think torture ought to be impermissible, all other things considered. What has not been sufficiently explored by bioethicists is whether these arguments—even if we were to grant their plausibility—can apply to psychologists, psychiatrists, and neuroscientists, which we will hereafter collectively refer to as "cognitive scientists". This is significant, as a broad swathe of biomedical scientific establishment has been involved, to different degrees, in the torture of detainees in the War on Terror.

In this paper, we begin by first describing the contemporary threat of torture, articulate why we should reject torture as a practice, and then canvass arguments for physician involvement in torture even if we think torture is unethical. We then argue that even if we were to accept these arguments in the case of physicians, they are not applicable to cognitive scientists. Our argument turns on two things: the empirical connection between cognitive science and torture, and the kind of therapeutic relationship psychology, psychiatry, and neuroscience—what we refer to as the cognitive sciences—require to generate benefit. We address a series of potential objections to our account, and then articulate recommendations for how the psychological and scientific professions ought to proceed.

Torture Resurgent?

On January 25, 2017, the New York Times reported a draft executive order (EO) from the Trump administration titled "Detention and Interrogation of Enemy Combatants" [12]. Among other things, the draft EO recommended revisiting the use of overseas Central Intelligence Agency detention facilities, better known as "black sites," to detain and interrogate prisoners captured in the course of the "fight on radical Islam." While the draft EO claims that "no one in the custody of the United States shall be subject to torture," the inference is clear: there is room to begin again

the use of overseas detention facilities in the pursuit of methods that are either defined as torture under international statute, or have the same result.

The draft EO would have reversed the Obama administration's EO 13491, *Ensuring Lawful Interrogation*, and reinstate Bush-era provisions (EO 13440) "to the extent permitted by law." That law has, moreover, evolved: an amendment to the FY2016 Defense Authorization Act prohibits the use of interrogation techniques not authorized in the Army Field Manual (AFM). Therefore, even if the EO were to be enacted, there's little possibility that torture would resume as if merely on pause for the last decade.

Nonetheless, despite some checks and balances, there are reasons to believe that the current administration could still pursue torture. The first is that issues of legality are themselves subject to change. The U.S. Congress is, in principle, able to overturn existing barriers to reinstating these programs. The administration has also demonstrated that it is willing to replace members of the administration to forward its agenda [13]. Both of these processes are prerogatives of government in power, but give us pause given the draft EO and President Trump's own assertion that torture is an effective means of pursuing counterterrorism strategy [14].

Moreover, in the intervening years what constitutes a permissible form of interrogation under the AFM has expanded considerably. The 2006 updates to Appendix M of the AFM allowed for interrogation of subjects to include, for example, *incommunicado* or "forced separation" of detainees [15]. This kind of measure has been subject to critique as potentially violating the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the US is a party, because sensory deprivation and social deprivation can deeply and permanently traumatize detainees. The complexity of implementing these methods in a way that does not constitute torture, or cruel and unusual punishment, has also been identified as a source of what former General Counsel to the US Navy Alberto Mora refers to as "force drift" in which the moderate or permissible use of force is used as a stepping stone to other, impermissible uses of force [16]. The institutional barriers within the US national security establishment— then-Director Pompeo noting that the CIA uses the AFM for guidance on the interrogation in 2017 [17], linking the military and intelligence communities in how they understand torture—are thus weaker than they were prior to the commencement of torture activities in the early years of the twenty first century. While the CIA is now theoretically committed to an established set of principles on the interrogation of subjects, those rules are broader than they once war (and arguably ought to be), and the same 2017 comments by Director Pompeo included mention of a desire to adopt a parallel, broader set of guidelines governing permissible interrogation for the intelligence community [17]. The institutions that guard against torture have been damaged, in addition to the moral crime of torture itself.

In May 2018, the US Senate confirmed Gina Haspel to the position of Director of the CIA. Haspel's confirmation was controversial for her involvement, as head of a CIA black site in Thailand, in the extraordinary rendition and torture of foreign nationals suspected to be involved in or supporting acts of terrorism and in the supervision of the destruction of CIA records about torture [18]. Through her confirmation hearings, Haspel was asked repeatedly if she thought torture was wrong, and while admitting that the program did damage to CIA officers and the

CIA's reputation, did not answer the question directly [19]. Rather, she claimed that CIA officers acted "lawfully." Given these laws stood in violation of International Humanitarian Law—specifically Common Article 3 of all the Geneva Conventions—in addition to being morally suspect in their own right, the legal defense of torture by Haspel should be troubling. Now confirmed as the CIA's director, Haspel represents the return to an intelligence agency that, if not outright supportive of torture, is certainly not opposed to such acts.

The Role of Professional Psychology

Psychologists in particular are, as professionals, vulnerable to this potential resurgence in torture. Reports in 2015 confirmed what many suspected for years—that psychologists helped the Department of Defense develop and implement EITs. In other words, the American Psychological Association (APA)--one of America's largest, most prestigious health care guilds-- was coopted by the military to do its bidding. Especially disturbing is that the facilitator of this collusion was the APA's Ethics Director, attorney and psychologist, Steven Behnke.

According to the *Report To The Special Committee Of The Board Of Directors Of The American Psychological Association* (The Hoffman Report), Behnke orchestrated a set of subtle but profound changes to the ethics guidelines that provided psychologists cover to participate in torture. These changes were based not in a set of reasonable ethical arguments but in political concerns for public relations. Investigators found that ethics "positions were taken to please DoD based on confidential behind-the-scenes discussion and with an eye toward PR strategy" [20].

Anyone familiar with a bit of medical history can cite disturbing episodes when medicine and the healing professions have been coopted by government or military interests. Perhaps the most famous of these in the popular imagination was Project MKUltra, in which the CIA administered, *inter alia*, LSD to subjects without their knowledge or consent [21,22]. The field of bioethics has as one of its origin stories radiation experiments carried out on hospitalized patients to determine the effects of plutonium and other radioisotopes on the human body [22]. As far as we can tell, this could be the first time a person who was both a clinician and an ethicist has been at the center of such a collusion making it doubly disturbing.

As director of ethics, Behnke was charged with reviewing and consulting on cases related to the clinical practice of psychologists. He was to be involved with education of group members. At the level of the APA, what seemed to happen was personal and political ideology—including, according to the Hoffman report, financial motive [20] —creating a toxic stew wherein an ethicist stopped doing ethics and started doing clandestine military work.

Of greater concern, Behnke seemed to go rogue when the APA Board attempted to reign in his behavior. Behnke allegedly worked secretly with DoD as an informant, consultant, and paid interrogation trainer behind the backs of APA leadership. He assured his DoD contacts that "[n]othing could diminish…my commitment to continue to support all of your efforts, and the efforts of the great men and women who protect our country and our freedoms" [20]. Behnke metamorphosed from an ethicist to a moralist—no longer were ethics issues reviewed critically,

objectively, and transparently. Instead, these issues became subjected to personal ideology, political favor, and fraudulent public relations.

As a result, the APA, the largest organizational body in the field of psychology, is in damage control. While promises of structural improvements and increased transparency may help prevent a catastrophe of this magnitude in the future, the damage has already been done. As a society we are more likely to remember a single egregious event rather than years of effectiveness and progress. Such is APA's new dilemma: how to continue to represent and improve the field in the face of the malfeasance of a select few.

Beyond the unknowable damage to the nation's foreign policy and to the field of psychology, professional ethics has been severely damaged by the malfeasance of an ersatz ethicist. Professional ethicists—occupying what is a relatively new line of work—need to build a trusting relationship with the greater society. When scandals like this one happen, professional ethics becomes nothing more than organizational window dressing at best and sophistry in the assistance of graft at worst.

Why Torturers (ought to) fail

There are two significant reasons to reject the use of torture. The first is that torture as a means of collecting actionable information by intelligence services constitutes a violation of the human rights of a detainee.[1] Customary international humanitarian law and basic rights theory secure the right of any individual to be free of torture, and for individuals detained during an armed conflict to fair and equal treatment, to bodily integrity, to freedom from cruel and unusual punishment [1]. There are also procedural rights that are violated by the torture of detainees, such as the means by which confessions are produced, or the admissibility of evidence provided by torture. Intelligence collection is, by its nature, less concerned with securing a conviction than it is at providing actionable information, but that need not discount the violation of procedural rights that prisoners of war have *qua* prisoners of war. Importantly, the legal fact that Executive Order 13440 [23] issued by President George W. Bush redefined detainees out of internationally codified legal protections (i.e. the Geneva Conventions) does not undermine the normative significance of the rights recognized by international instruments to which the U.S. is a party.

To this, the common counter-argument is an argument refined by Fritz Allhoff known as the "ticking time bomb argument" (TTBA). The argument is as follows: suppose a detainee in custody had information about the location and disarmament of a powerful explosive device concealed in a major urban center. There is no time to attempt to build a rapport, or rely on other intelligence collection methods, or search every space of the city, before the device—on a timer—explodes, killing thousands. Allhoff ultimately concludes that in such a case we would be

[1] For the sake of brevity, we set aside the question of whether the policies of detention enacted by the United States over the last 15 years are themselves violations of human rights.

permitted to torture the detainee if and only if torture was the only surefire way to determine the location of the bomb [24].

The TTBA is a threshold argument where the rights of an individual are acknowledged, and then buy-in is sought for a threshold beyond which competing considerations outweigh those rights. The buy-in to the TTBA requires acknowledging

a) the rights of the individual may be outweighed by competing considerations such as a clear and present danger;
b) cases of mass harm, such as a large explosive device (or another 9/11), constitute a great threat;
c) Torture meets some standard as an effective means of acquiring actionable intelligence to respond to this threat;
d) Sometimes torture might be the *only or most* effective means of doing so before the onset of some great threat;

The first and second parts of this is a relatively common move to appeal either a threshold account of duties [25] and/or pluralism about values [26]. Where these accounts might diverge is only what circumstances approaches such a threshold: options include in cases where a minimally positive number of lives can be saved [27]; some existential threat to a political community such as Nazi Germany represented to Great Britain and other European communities [6]; or some "catastrophic moral horror" such as a nuclear holocaust [28] (See footnote p. 30).[2] The third and fourth parts are a combination of empirical claims about torture as an intelligence gathering activity, and the conditions under which torture occurs.

The problem with this argument is that parts c) and d) fail. Empirically, psychological literature on the role of pain in compliance behavior has determined that the quality of information we can expect from torturing detainees is not simply of a poor quality: the incentives we create for the tortured are such that even if a detainee believes what they say, they do so because they are primed to believe whatever string of words stops the torture, eliminating the possibility of knowing whether what a detainee believes is really actionable intelligence [29]. The CIA Office of Medical Services has claimed that its interrogations (without specifying what kinds of methods were used) provided actionable information, and that medical and psychological after effects were not evident on detainees [30]. This, however, conflicts with the longstanding empirical literature that suggests torture is ineffective [29,31], and findings by the CIA Inspector General that cast doubt on the efficacy of any particular EIT in generating actionable intelligence on a pressing and immediate national security threat [32].

Because of this, the TTBA is a case that presumes to make an argument, but in doing so makes a series of unrealistic and impossible assumptions about the world. Michael Davis has argued that

[2] This specific page reference supplied at the request of a reviewer who noted, correctly, that *Anarchy, State, and Utopia,* "[is] a long book."

the TTBA is somewhat analogous to the phrase "pigs may fly"—while it produces a coherent image in our minds, what it means for pigs to fly entails that either the species "pig" did not evolve in the same way that it actually did in this universe, or that the thing flying is not really a "pig [33]." In the same way, the TTBA assumes we are torturing someone in a universe with a set of fallacious rules about human psychology [29,34].

Another problem with the TTBA is that it is too strong. It may seem odd to say that a moral argument can be too strong but in order to qualify as any sort of argument (moral or otherwise), it must be possible to refute it, otherwise it is merely an assertion that, again, masquerades as an argument. In the case of the TTBA, for example, no amount of countervailing evidence can defeat the claim that it is worth the risk of being wrong about what the subject may know in order to save thousands of lives. Moreover, there is no inherent limitation on who may be tortured. For example, the TTBA would implicitly permit the subject's three-year old child to be tortured in his or her presence in order to obtain evidence. That the TTBA fails even to provide an account of a situation that flies in the face of our moral intuitions, let alone to provide an exception, again indicates that it is fallacious.

Dual Loyalties and Dirty Hands

The challenge that arises for physicians is twofold. First, torture raises the so-called "dual-loyalties" dilemma, where physicians have obligations to their profession as doctors, and to their service within a state military. A physician's job is to care for patients in need, arising from a duty of care physicians have to the sick. Their job as members of the armed forces, however, is to promote the interests of their nation during times of armed conflict. These duties conflict in cases, for example, when it comes to spending resources on injured soldiers. While a duty of care often means spending resources on the most needy, the efficiency concerns of the armed forces may push in the direction of prioritizing the care of soldiers who can be successfully stabilized and returned to the front [35].

The conceptual architecture of dual-loyalties can be extended to cases of torture. In the case of torture, a physician may be asked to administer certain drugs to make a detainee more susceptible to being broken by torture, or to stabilize a detainee to ensure that their torture does not kill them (and they can thus continue to be interrogated). In both cases, it isn't clear what a military physician ought to do *qua* physician, or *qua* military officer. In the first case, administering drugs may violate the consent of the detainee, but might conceivably lessen the time over which they are tortured. It, however, would constitute direct involvement in torture, which is neither permissible from the perspective of the physician, nor justifiable as a military or intelligence collection action. In the second case, the opposite obtains for the physician's loyalties to medicine, as stabilizing a patient constitutes a fulfillment of duty of care. But it does so as a means to continuing torture, which may constitute both ultimately harming the patient more, and being complicit in the process of torture.

One response to this problem is the idea of dirty hands. That is, it may sometimes be permissible to violate moral constraints in order to achieve some great good or prevent great harm. While often talked about in the context of "supreme emergencies" that threaten an existential crisis to

political communities, the origins of dirty hands lies in the idea that in order to affect some kind of significant political aim we may need to involve ourselves in morally problematic or even impermissible acts [8].

This idea of dirty hands appears in the literature on torture more broadly; indeed, dirty hands and the TTBA share a structure in trying to justify violations to fundamental principles on the grounds that something of enormous value will thereby very likely be accomplished and that the exception can supposedly be kept rare. But there is an interesting turn in the debate around physician complicity in torture that turns on a similar premise. Lepora and Millum [10] have argued that even if torture is impermissible, a physician might be justified for being complicit in torture just in order to provide aid to the victims of torture. That is, while it might constitute a violation of their rights, the need to preserve the health of a person in the long term, in addition to promoting wider political consequences, might justify complicity in torture.

Such an argument can be broken into two separate areas, a "small" dirty hands argument and a "large" one. The small one takes the form of a classic moral dilemma. That is, while it would be impermissible to be complicit in torture, all other things being equal, all other things are *not equal*. At times a pressing moral consideration such as the life of a detainee may override the obligation to refrain from complicity in torture.

The larger argument, which Lepora and Millum engage in only in brief—but posit as an important part of their claim about the permissibility of complicity in torture—that larger political aims may justify complicity in torture. Though they discount the most obvious of these political aims, to gather information about torture for purposes of whistleblowing, they maintain that at times greater political aims may give sufficient reason to engage with torture.

The limits of the analysis: psychologists' and scientists' complicity in torture

Does the analysis of the (purportedly defensible) complicity of clinicians in torture extend to other domains, such as psychology and neuroscience? Here, we argue that an attempt to create an analogy between these fields fails, and that even were we to grant the permissibility of limited engagement with torture by physicians (which it is not clear we should), such an argument fails to justify the involvement by these other fields in the institution of torture.

The first reason why an attempt to analogize between physicians and psychologists fails is empirical. The argument for physicians participating in torture rests on the kind of activity they participate in: caring for a detainee like a patient, and providing supportive care or otherwise protecting the patient from some worse kind of treatment (I.e. torture plus a lack of expert medical care). A recently released CIA Office of Medical Services (OMS) document is primarily concerned with physician involvement, and takes pains to demonstrate that the overwhelming majority of medical involvement in EITs involved this supportive role [30].

But, in general, the kind of services Behnke and his colleagues provided were not supportive of the detainee *qua* patient, but in support of the torturers. Behnke, as described above, was not merely participating in the institution of torture as a means to try and preserve the life of the detainee, but rather an enthusiastic participant. His research and practice were geared toward

using insights from SERE training to better break detainees through torture. At best, he was directly complicit in torture, in that he provided the means (or better means) to torture. At worst, he was the torturer by proxy.

One could reply that while this is clearly the case and any activities like Behnke's are impermissible, and indeed illegal under IHL, there is still a case to be made for psychologist involvement in torture in the same way as physicians. That is, Behnke is an analogy to what we would regard as impermissible physician involvement in torture, where the physician is themselves the torturer. Rather, a more appropriate ethical analogy is to a psychologist who works outside of torture to make sure the detainee can process their treatment, and ultimately return to the world and live the remainder of their life free of their trauma.

The central problem with this is twofold. To begin, the physician-patient relationship is not relevantly similar to the psychologist-patient relationship *qua* realizing therapeutic benefit. Doctor-patient relationships rely on trust, and clinical outcomes may be promoted in virtue of that trust. Indeed, trust is often seen as vital to an ethically defensible profession of medicine. But that trust is not clinically necessary, for example, to provide supportive or surgical care (even if we think it ethically desirable, or even required). Even if physicians are not acting ethically *qua* professionals, they might suitably act under what Pellegrino has referred to as a "body repair" model by which they assist in the repair or maintenance of a patient's bodily functions [36].

In contrast, being a psychologist to a torture victim is entirely the wrong kind of relationship to provide therapeutic benefit. The victim has no reason to trust what the psychologist says, and what the psychologist says is the meat of the benefit they provide. For psychologists the professional and body repair models are more closely related to one another than in the case of physicians. This difference may be more a matter of degree than kind, but it is a difference that nonetheless sets apart the value of psychological intervention from that of clinical intervention on tortured detainees.

More broadly, for cognitive scientists as a whole, is that the whole point of torture is to psychologically break the subject, in order to extract actionable intelligence. Helping a detainee process their trauma heals them in precisely the way torture is designed to harm. That is, were psychologists to provide "successful" supportive psychotherapy to a detainee that might well stiffen the individual's resolve to resist the torturers' demands, a result that would not be acceptable to the authorities. While a physician keeping a person's body safe while their mind is broken might be justifiable, it seems doubtful that anyone else in the institution of torture would allow a psychologist to deliberately undermine the very activity they are allegedly acting in support of (or at least not in opposition to) [34].

So the analogy fails on three specific counts. Empirically, psychologists have not been involved in practices that accord with the analogy from the physician. Moreover, the relationship of trust required for psychologists to interact with their patients is impossible between a psychologist and a detainee. Finally, there is no incentive for the torturer to allow their captive to be cared for in the way a psychologist or neuroscientist could provide care.

Objections

We anticipate a number of objections to our account. We set aside the objection that torture is either in principle or in practice permissible, as this is both tangential to our argument and (we believe) false. Rather, we wish to account for objections that might attempt to salvage psychologists' complicity in torture despite its impermissibility.

The first objection is that non-physician professions—particularly research psychologists and neuroscientists—are not as complicit as physicians in torture, as a rule. This difference in degree to which cognitive scientists are complicit is, further, reason to believe that their involvement is not impermissible. With the exception of folks like Behnke, the majority of scientists who work or around the issue of torture do so to better assist service personnel in surviving torture by an adversary, or helping the recovery of returning service personnel who have experienced torture, or experienced some similarly traumatic experience. Whereas physicians actually engage with the tortured, psychologists are only indirectly complicit in torture.

This kind of objection turns on what it means to be "complicit." While a full analysis is beyond the scope of this paper, one can be complicit when one causally assists in an immoral act (complicity of consequence), deliberately acts alongside others engaged in immoral acts (complicity of acts), or holds a favorable disposition toward those engaged in immoral acts (complicity of disposition) [37]. Physicians were complicit in terms of the consequences of their acts, but this is arguably straightforwardly impermissible complicity [4]. Things get more complicated when physicians, for example, act alongside the torturer by providing supportive care to detainees. In these cases the physicians did not determine the consequences of torture, and or did so only in a very weak way.

Cognitive scientists, on the other hand, have been foundational to the institution of torture. The adoption of SERE techniques—knowingly by Benke—enabled the torture of detainees, and provided legitimacy for acts of torture under the EIT program. Here, the lack of involvement by psychologists in the business of consulting on interrogation arguably would have made some significant difference to the existence of the torture program.

This dovetails into a second, related objection that invokes the idea of dual-use: when the same piece of research or technology can be misused for good or bad ends [38]. While Behnke's complicity is clear and straightforward, it is not clear that the majority of the psychological work that ended up enabling the US torture program was so directly involved. The torture program, for example, utilized the work of Martin Seligman on learned helplessness to develop the EIT program [39]. Seligman's work was dual-use, but this arguably wasn't obvious when Seligman began his research on learned helplessness in 1967.

A question arises then, about what level of involvement and kind of dual-use cognitive science research ought to be seen as complicit with torture to the degree that psychologists ought to refrain from being involved in such work. Given that we now know—and should expect—psychological research and practice can be used in the pursuit of the torture of detainees, and that psychologists are and have been engaged by state national security establishments for just such a

purpose, it is less plausible to claim a form of non-culpable ignorance of the potential misuse of one's research. Moreover, we know that the following conditions obtain:

1) The complicity of high-ranking members of the premier professional psychological association in the US in torture;
2) The funding of cognitive science research by state militaries and intelligence agencies;
3) The relationship between permissible uses of psychological research in defense contexts (e.g. SERE training) and torture;
4) The aforementioned reappearance of the institutional conditions for torture, including the presence of extranational, extrajudicial detention facilities (which allow for, *inter alia*, the suspension of the writ of *habeus corpus*).[3]

We should therefore note that the dual-use potential for psychological research within the context of military environments and SERE (among other topics) has a strong potential for misuse [29].

Institutional Resistance

The objection to dual-use raises a series of important points of resistance against the use of cognitive science in torture. Given the strong potential for misuses, and in the absence of a government that is willing to take the necessary institutional steps to preclude the use of this research of torture, it falls to professional self-regulation as a stopgap against the misuse of science and technology by bad actors. This responsibility inheres to professionals in virtue of their capacity to prevent harm. It also arises in the context of an otherwise imperfect duty to prevent the misuse of their technology made is stronger in the absence of other responsible actors.

Given the crisis in the APA's credibility regarding torture, the APA should immediately affirm its institutional commitment to opposing the use of torture against detainees. It should also, in ways we detail below, commit to strengthening its institutional norms against torture in ways that safeguard its members. We also recommend that, given the broad interest in cognitive science by military actors, professional associations in related fields (e.g. American Psychiatric Association, Society of Neuroscience) should take similar measures. It is worth noting that under the leadership of Steven S. Sharfstein, the American Psychiatric Association strengthened its position on torture, though some have claimed that these efforts have not been sufficient to avoid complicity in torture among other ethically impermissible acts [40].

Prohibition on Participation in the Means of Interrogation

First, the APA should reaffirm its condemnation of torture, and its proscription of member participation in or supporting torture. It should, moreover, clarify the grey area between its 2013 policy on psychologists' work in national security, and the updated APA code of ethics statement

[3] Thanks to Robert Kirsch for assisting in describing these conditions in conversation.

(3.04) prohibiting torture. Ambiguity arises between the involvement of psychologists in "interrogation," and those involved in "torture." The APA should be proactive in resisting involvement in interrogation in cases of armed conflict or international counterterrorism activities.

The motivation for this is one of accountability and transparency. Given that the U.S. Government has repeatedly traded on the ambiguity between (permissible) interrogation and (impermissible) torture, and given the past complicity of senior APA members in the latter, it is essential that the APA draw a clear, bright line against psychologist participation in interrogation contexts involving a marked lack of transparency or accountability. Foreign intelligence collection, armed conflict, and counterterrorism are clearly contexts in which transparency and accountability for the actions of psychologists are at an all time low.

The single instance in which the involvement of psychologists might be warranted is in cases where a detainee, having separately undergone interrogation, requires psychological evaluation for some other purposes. In these cases, the APA should continue to uphold a commitment to the humane treatment of prisoners, and psychologists should work with independent groups such as the International Committee for the Red Cross and Red Crescent (ICRC) to provide care to detainees.

Whistleblowing

In the event that agencies attempt to recruit or involve APA members in torture or potentially torturous interrogations, or an APA member comes to knowledge that these are taking place, the APA should commit to supporting whistleblowers against the federal government in cases of reporting the interrogation of torture.

This strong position follows from our previous claims. Given that the US Government has, in previous administrations, exploited the grey area between permissible interrogation of detainees and torture, and that transparency and accountability are limited within those institutions, it follows that whistleblowing is one of the only mechanisms by which action can be brought against the government. Whistleblowing is an intensely personal choice, and typically leads to sacrifices. High profile whistleblowers such as Roger Boisjoly, who revealed internal documentation surrounding the *Challenger* Disaster,[7] or Karen Silkwood's activism regarding health and safety risks in plutonium fuel fabrication plants cost both their careers and exacted a physical toll.[8] It would be remiss of us to suggest that any individual psychologist be *obligated* to blow the whistle, but as a professional guild the APA should provide clear policies to support, and if possible protect through legal assistance, whistleblowers who in good faith disclose unlawful or inhumane actions to which they are made privy.

Dual-use psychology

As we discuss above, psychology, psychiatry, and cognitive neuroscience are three interconnected fields that have received considerable funding through national security apparatus. In particular, cognitive neuroscientists and psychologists have generated research in social behavior prediction and modification that may be used in interrogations [41]. However, but there

has been little sustained analysis on the ethics of novel techniques in interrogations, enhanced or otherwise.

APA members should commit to an open discussion of the "dual-use potential" of their research to be used to help or harm humanity. This dual-use potential has been the subject of discussion in both the physical and life sciences [42]. Given the demonstrated potential for potentially beneficial psychological research to be misused by intelligence agencies, among others, it should also be a subject of investigation for psychologists allied professions.

This is one of the central issues that arises for psychologists confronting the torture issue. Psychologist interaction with national security is pervasive and long-standing. This includes engagement of early cognitive scientists with chemical weapons programs, and other clandestine programs [43]. But importantly, the vast majority of psychologist interaction with national security is more benign, and arguably desirable: the diagnosis and treatment of mental illness in warfighters, or the development of cognitive tools for decision making under extreme stress. Direct action, which we deal with below, could potentially split the profession if psychologists who wish to continue their work with DOD even in the presence of weakened institutions around torture cannot come to a consensus about what ought to be done.

A potential solution is to utilize the APA's role as a lobbying body to create political changes. Professional scientific organizations have traditionally been, in the fashion of older guild models, vehicles for professionals to lobby for collective benefit [44]. Certainly, the American Association for the Advancement of Science (AAAS) and American Medical Association (AMA) hold this role; the APA describes one of its functions as being an advocate for psychology [45].

One potential form this lobbying function could take is as a political action group within the APA, through its Federal Action Network, and its Civil Rights Advocacy Initiative. This group could be tasked with lobbying current and future lawmakers for discrete changes to US laws and policy, to the effect of

a) reaffirming the Obama era EO;
b) creating a legislative instrument forbidding the use of EITs,
c) an instrument affirming a binding US commitment to the Geneva Convention Relative to the Treatment of Prisoners of War, and the Convention Against Torture;
d) the closure of GTMO and other sites;
e) Renewing and broadening the involvement of the high-value detainee interrogation group (HIG) to review proposed interrogation measures for their safety and efficacy, and incorporating into that group ethicists and lawyers with experience in international law to ensure compliance of new techniques with the US' international commitments.

These could both function to assert the norms against torture within the society, while retaining professional interactions with the DOD and IC on non-torture issues.

The primary intuition guiding this move is that institutional resilience against torture is neither exclusively a matter of self governance by the profession, nor by the national security establishment. Rather, this is a legislative and political matter that should be put before the

relevant lawmakers and executive. The APA could act as a guiding force in pushing this program for political change, without necessarily alienating those psychologists engaged in legitimate and/or desirable national security work.

Direction Action

In the event that all other measures fail, psychologists should seriously entertain as a *last resort* the possibility that support of military activities through research and practice, writ large, should be withheld until the institutional frameworks that prevent the abuse of the profession of the cognitive sciences in assisting torture. Other professional societies and organizations have gone to these lengths, such as the American Anthropological Association's wholesale rejection of military work in the wake of the Human Terrain System [46]; or the recent decision by Google to refrain from taking contracts to provide AI research and support to the Department of Defense following a petition by its staff. This is a powerful and contentious issue, and it would be remiss to claim the APA and its members are obligated to do so in the absence of a more complete argument, which is a paper unto itself.

However, a *prima facie* argument for such a move can follow from the doctrine of dirty hands itself. The most obvious objection from wholesale refraining from research involving the military is that some military objectives, or roles scientists play with the military, are legitimate and desirable (e.g. helping veterans recover from trauma). In light of this, some have argued—such as in the case of Google's decision—that it is not only undesirable to refrain from support in such a way, but doing so is objectionable because it damages our national security (which we might think is, or promotes a very important set of values [47])

Given the erosion of norms against torture—and the rights violations torture entails, and the corruption of our institutions it has brought about—the doctrine of dirty hands might suggest that such a radical move is the way forward. Recall that the dirty hands doctrine claims that sometimes otherwise impermissible acts may be justified in the pursuit of great social goods, or the prevention of great harms. Given that the norms against torture have been so severely eroded, and that this erosion has spread to other institutions within the United States, we might think that even if withholding support for the military threatens our national security in otherwise impermissible ways, such an act might be justified just in case repairing the civic institutions of the United States is a more pressing political and moral goal than the (otherwise unjustifiable, and temporary) damage that refraining from involvement in the national defense entails.

Conclusion

The APA's president, board of directors, council of representatives, and executive management group have a special obligation to continue to unequivocally renounce the participation of psychologists in torture. In light of the current administration's new policy statements and executive orders, the APA has a unique opportunity to show institutional leadership in service of the values of democracy and human rights at a time when it is sorely needed.

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