

Commentary

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Even if Jones is right and utilitarianism does permit torture sometimes, nevertheless many people feel deep revulsion at licensing torture in any circumstances. Perhaps such revulsion ought to be overcome (do not most of us suffer squeamishnesses we think we ought to master?), but first let us stand back from utilitarian ethics and ask whether this problem needs to be answered within a utilitarian framework at all. Must we decide the permissibility of torture solely by weighing the desirability of its consequences? Might we not instead decide the issue from the standpoint of a deontological ethics – that is, an ethical code in which the rightness of an act is not settled by reference to the desirability of its consequences? In discussing this question I shall focus on the revulsion felt by many people against torture in any circumstances; I shall cite some of the things they might say in defence of that revulsion (for I take it that that revulsion needs a rationale if it deserves to be endorsed by rational people, not overcome); and through criticism of those defences I shall explore the possibility of developing a rationale for the revulsion against torture that:

- a) is acceptable to a rational person, and
- b) does not depend upon utilitarian arguments.

Here, then, are some of the things that might be said in defence of the revulsion against torture.

1) 'If what Jones calls 'modern medical technology' was used, not to heal, but to torture, then the trust that patients place in doctors would be undermined, with highly damaging effects on the whole practice of medicine.'

This may well be true, but notice that it is not a *non-utilitarian* defence of the revulsion against torture, since it meets the utilitarian on the latter's home ground and argues that licensing torture, at least by 'modern medical technology', would have such bad consequences that a utilitarian must say 'No'.

2) 'Some things are right and some things are wrong irrespective of their consequences. Where torture is concerned it is profoundly immoral to weigh consequences at all – there is an absolute moral prohibition, whatever the consequences.'

This statement, however, does not provide a *non-utilitarian* rationale for the revulsion against torture in all circumstances; it merely articulates that revulsion, leaving it still an open question whether that revulsion is defensible on *non-utilitarian* grounds.

3) 'Doctors swear an oath, or are at least widely understood to do so, that they will use their skills

only for the patient's good. To use them for torture would violate that oath.'

Indeed it would, but how is one to defend holding to that oath when doing so might, as in Jones's example, ensure 100,000 deaths?

4) 'Central to human beings is their autonomy, that is, their capacity to shape their lives according to their own judgement and will. In so far as we deny someone the exercise of their autonomy, we violate the respect that is due to persons. Now to torture someone to get information is a peculiarly vivid and flagrant violation of that respect, for we are unqualifiedly and undisguisedly bent on extracting information from them wholly against their will. Torture, then, involves a profound failure of respect for persons.'

But if we hold back from torturing this person because it would be a violation of the respect owed to persons, remember that on Jones's supposition we thereby ensure the deaths of 100,000 other persons to whom, presumably, respect is also owed. I do not see how a doctrine of respect for persons can by itself justify a refusal to torture one person that ensures the deaths of many other persons.

5) 'To torture someone is to do a positive act that is dreadful, whereas if one declines to torture and 100,000 die, one has merely omitted to interfere in the course of events.'

But is the difference between acting and refraining from acting, between commissions and omissions, of sufficient moral significance to sustain the position argued for here? I act, and one person suffers torture; I decline to act, and ensure 100,000 deaths: on what grounds can one say that the latter course is the more defensible one? The claim that acts have a special sort of moral significance that omissions do not have itself needs a rationale; otherwise, to defend the revulsion against torture by appeal to a propensity to attach significance to one's acts than to one's omissions may amount to no more than a defence of one irrational feeling by appeal to a second irrational feeling.

Although my criticisms of these attempts at a *non-utilitarian* defence of the revulsion against torture may seem destructive, nevertheless they point a way forward. What the deontologist needs in order to reply to those criticisms is that the world should be such that either holding to an oath does not bring with it something appalling like 100,000 deaths, or the appallingness of that consequence can somehow be mitigated or compensated for, or it is somehow not one's business to concern oneself with that appalling consequence. The deontologist needs a world in which violation of respect for one person does not involve violation of respect for another set of persons, or in which what happens to those others is not the agent's business; a world in which, so long as we are scrupulous to do the right acts, we can properly wash our hands

of our omissions and their consequences. Now if one believes that God exists, it may be reasonable to look on the world in precisely this way: for then, perhaps, one can look to God either to ensure that one's refraining from torture will not bring 100,000 deaths, or to mitigate the awfulness of that consequence by some sort of compensating working-out of events in this life or the next, or at least to relieve one of responsibility for what happens when one abides by absolute moral prohibitions. Such a view is suggested by P T Geach: "If there is an all-embracing Providence, this thought can give us great confidence as well as great fear. . . . We need not worry that by keeping God's Law we could by misadventure get the world into a mess; 'I did not make the world, and he who made it will guide'."¹ Not all philosophers would accept this view. Some in the existentialist tradition, for instance, would

argue that even if God does exist this does not take from people the perpetual burden of concern for the consequences of their acts. Still, there is a *prima facie* plausibility about the view that, if the God of Christian orthodoxy exists, then the deontologist's position has a rationale. And here is my challenge: can a satisfactory non-utilitarian defence of the revulsion against torture in all circumstances be constructed without presupposing the existence of God, or must a rational person who does not believe in God also reject a deontological ethics? Are agnostics and atheists doomed by their reason to be, in their ethics, utilitarians?

Reference

¹Geach, P T (1977). *The Virtues*, Cambridge. Cambridge University Press. p. 108.