I have spoken as recently as 24 hours ago with people at the highest
level of intelligence and I asked them the question ‘Does it work? Does torture
work?’ And the answer was, ‘Yes, absolutely.’ These and similar statements in
support of “enhanced interrogation” by President Donald Trump have revived
the policy debate about the ethics of torture as a counterterrorism tool, amid con-
cerns that the administration might roll back the Obama administration’s ban on
torture. In these passionate debates, one argument has proven particularly influen-
tial: the ticking bomb argument. In this scenario, torture is justified because it is
the only way to prevent an imminent mass terror attack. At Senate hearings, in
internal government policy memoranda, in the memoirs of intelligence officials, in
pundit editorials, and in Supreme Court cases, torture proponents have used the
ticking bomb scenario to justify the forceful interrogation of terror suspects.

Prior to 9/11, readers of English newspapers worldwide might have encountered
references to “torture” paired with “ticking bomb” two or three times a year on
average. Since 9/11, these references have multiplied roughly tenfold: “torture”
and “ticking bomb” have appeared in the same article about three times a
month. In parallel, the ticking bomb scenario has influenced interrogation poli-
cies at all levels of U.S. decision making. A 2005 memorandum from the
Office of Legal Council to the CIA permitted waterboarding if the interrogation
met ticking bomb conditions. In his nomination hearing to be director of the
CIA in 2009, Leon Panetta listed the ticking bomb scenario as a factor in consid-
ering whether to employ torture. Seeking to justify the CIA’s enhanced interroga-
tion program, Jose Rodriguez, former director of the CIA’s National Clandestine
Service, noted: “You cannot overstate the urgency we felt about getting answers quickly ... We very much heard the time bomb ticking.” Six former CIA directors stated in 2014 that the CIA policy on torture, including the waterboarding of detainees, was motivated by a “classic ticking time bomb scenario,” based on the agency’s fear that al-Qaeda might be planning to detonate nuclear weapons in New York City. What began life as a thought experiment—conjured up by philosophers like Jeremy Bentham, Jean-Paul Sartre, and Michael Walzer—has now become, in the words of Alan Dershowitz, “a moral, intellectual, and legal justification for a pervasive system of coercive interrogation.”

If it were not so influential, the ticking bomb scenario would be laughable. A terrorist has planted a nuclear bomb under Times Square. Oddly, he has chosen a bomb design that is both disarmable and set on a very slow timer. If the bomb goes off, it will kill many thousands. As the suspect walks away, with the timer on the bomb ticking, he clumsily falls into the hands of the authorities. Somehow, intelligence agents quickly determine that he is a terrorist, that he has planted a bomb, and that he, and he alone, holds the secret to disarming it. They interrogate the suspect, but he refuses to divulge its location or the code required to deactivate it. With the timer on the bomb still lazily ticking away, they decide torture is justified. They do so effectively: with the information they seek instantly revealed, agents rush to the site of the bomb, which has yet to go off. They dismantle it successfully, mere seconds before it explodes. It is a pop culture cliché that has captured the public imagination, including viewers of the television series *NYPD Blue* and *24* (where this cliffhanger featured twelve times in every season, on average).

The ticking bomb is a dangerous trope that has promoted a harmful policy on terrorism and torture. Because it is so bizarrely unlikely, this metaphor has been stretched beyond its breaking point to justify torture even for threats that do not involve nuclear weapons, that do not include a specific “ticking” timeline, and that contain great uncertainty about the culpability and knowledge of the torture victim. The time has come to dismantle this myth.

**A Feeble Historical Record**

Torture opponents have decried the many ways in which the ticking bomb hypothetical has misled policymakers: it whitewashes the complex realities of
torture, it relies on an artificial extreme to establish routine policy, and it resolves none of the underlying ethical dilemmas that plague torture. Instead, it allows torture proponents to get their foot in the door, “like getting a vegetarian to eat just one little oyster.” Defenders of the metaphor argue that the scenario, while rare, is not impossible and that we would be naïve to presume that such an event could not happen, eventually. They claim that similar cases have occurred, allowing us to learn from the metaphor by analogy.

What is the precedent for ticking-bomb-like cases? Such cases would have to match the five key elements of a ticking bomb scenario: a bomb, usually a weapon of mass destruction, set to kill thousands or more; a perpetrator who is apprehended while the bomb is ticking; the use of torture; the rapid disclosure of crucial information sufficient to disarm the bomb; and the timely defusing of the bomb. Have any scenarios like this, or close to this, taken place?

Intelligence agencies worldwide have claimed that torture has prevented ticking bombs from going off, but they are parsimonious with details. Neither American, nor French, nor Israeli interrogators have been forthcoming with names or the particulars of specific incidents in which torture played this crucial role. In the history of modern counterterrorism and torture, I could find only four cases that come close to fulfilling even some of the criteria of a ticking bomb scenario, and all four are a far cry from the hypothetical scenario. Two of the four are not even cases of terrorism: they are kidnappings. Neither of the two terror attacks involved a weapon of mass destruction. Two of the four cases may not have involved torture. In only one of the cases did torture, if it was torture, save lives.

The first case that somewhat resembles a ticking bomb setting occurred in October 1994 in Israel, when Hamas terrorists abducted a 19 year-old Israeli soldier, Nachshon Wachsman. His abductors released a videotape showing the kidnapped Wachsman bound to a chair. They demanded that Hamas leader Sheikh Ahmed Yassin and 200 additional Palestinians be released from prison within four days or else they would execute their hostage. With 24 hours left before the ultimatum expired, Israel’s General Security Services (GSS) was able to arrest Jihad Yarmur, a Hamas activist who had rented a car that matched the description of the one involved in the Wachsman kidnapping. Without knowing for certain how involved Yarmur was in the kidnapping, GSS members interrogated him using “moderate physical pressure.” By morning, he confessed to his involvement in the abduction and revealed the village and house where the hostage was held, as well as a description of the house interior, floor by floor. A hastily organized hostage rescue operation, coinciding with the
hostage-takers’ ultimatum, failed: during the firefight, the terrorists executed Wachsman, killed the leader of the commando team, Captain Nir Poraz, and wounded nine commandos. Yarmur’s torture yielded quick and accurate information that sufficed to locate the hostage. Other than that, this case bears little to no relationship to a ticking bomb.

A second case that fulfills some of the conditions of a ticking bomb scenario took place in 1995 in the Philippines. Here, torture was used to obtain information regarding large-scale terror plots, but it was not obtained under time pressure. When Philippine police tortured Abdul Hakim Murad, he not only revealed the name of his accomplice, Ramzi Ahmed Yousef, but also their plan to execute an attack during the pope’s visit to Manila as well as their plan to bomb airliners. He also revealed their plan to fly planes into the CIA headquarters, the White House, and the Pentagon, now recognized as early versions of the 9/11 plot. However, to piece together a full outline of his plots, information obtained from Murad had to be correlated with flight numbers and airline itineraries on his laptop, which were encrypted and took a long time to decode, and with other objects found in his apartment. Since there was no ticking bomb, there was also no bomb to disarm. This was fortunate, because Murad withstood 36 days of torture before he confessed, hardly the timeframe envisioned by ticking bomb proponents. By then, the pope’s visit to Manila had come and gone.

A third case of successful interrogation involving torture occurred in Germany in 2002. A law student by the name of Magnus Gäfgen kidnapped Jakob von Metzler, the 11-year-old son of a prominent Frankfurt banker, and delivered a ransom note to the child’s parents. Four days later, police arrested Gäfgen as he picked up the plastic bags containing the ransom money. Over the course of 36 hours of interrogation, Gäfgen named one false location after another at which the boy might be found alive leading police to worry that the boy was starving, suffocating, or freezing at a site known only to the suspect. A search involving 1,000 police officers, 20 sniffer dogs, and helicopters yielded nothing. Imagining the boy to be in imminent danger, the deputy police chief of Frankfurt, Wolfgang Daschner, issued a written order instructing his subordinates to extract information “by means of the infliction of pain, under medical supervision and subject to prior warning.” Gäfgen was told that “a specialist” was on his way from Frankfurt to “inflict pain on me of the sort I had never before experienced.” Gäfgen also said the police threatened to take him to a cell where two male prisoners would rape him. Unrealistic as these threats may seem in retrospect, the mental suffering caused by these threats could still be classified as torture under the UN Convention Against Torture. Minutes after hearing these threats, Gäfgen disclosed the child’s location. Tragically, Jakob had been dead for days: Gäfgen had murdered him by wrapping his mouth and nose in duct tape, then immersing him in a bathtub, before tying him into a sack that he pushed into a lake.
Gäfgen was sentenced to life in prison but was awarded damages by a German court for the mental pain caused to him by the police threats. Deputy Chief Daschner received a warning. The affair unleashed a fierce debate in Germany around the use and threat of torture. German politicians made explicit connections between Daschner’s dilemma and ticking bomb cases. Does the comparison hold water? The Daschner case, like the Wachsman case, demonstrates that coercion or the threat of coercion can facilitate quick information extraction when the detainee is not a trained terrorist and when the plot is a simple kidnapping. However, in addition to failing to save the life of the kidnapped boy, the case involved neither terrorism nor bombs. Indeed, it involved no physical torture so it can serve, at best, as an illustration of the efficacy of threatening, not implementing, torture.

A fourth and final case that matches some of the criteria of a ticking bomb scenario occurred in 2003. Israel’s GSS apprehended Nasim Za’atari, a 24 year-old Hamas terrorist who headed a three-person cell in Jerusalem. On two prior occasions, Za’atari and his accomplices collected intelligence on terror targets, hid suicide bombers in a rental apartment, equipped them with explosive belts, disguised them, and led them to their targets. Their attack on one bus line (no. 45) failed when the assailant panicked and blew himself up prior to boarding the bus. Their attack on another bus line (no. 2) was successful, killing 23 people and wounding 130 others. Za’atari began planning a third attack on a bus line (no. 15) when he was arrested.

Za’atari was “broken” in interrogation, presumably due to torture. Soon thereafter, Israeli forces assassinated the Hamas operative who had recruited the suicide bombers sent to Za’atari. The GSS was also able to locate three bomb belts, hidden in a washing machine that a moving company had brought from Hebron to Jerusalem. As a result, at least three further suicide attacks were prevented and dozens of lives were saved.

The GSS never confirmed that torture was used against Za’atari. Nor do we know how long Za’atari kept silent before he collaborated. The foiled terror attacks were still in the planning stage, not underway, and they did not involve weapons of mass destruction. Moreover, Za’atari’s interrogation coincided with extensive raids on Hebron by the Israeli military and special forces, designed to shut down Hamas operations. The killing and arrest of Hamas leaders during these raids may have contributed to foiling those terror attacks regardless of Za’atari’s interrogation.

**How Farfetched Is It?**

It should come as no surprise that there are no real-life examples of ticking bomb cases, because everything about the hypothetical ticking bomb scenario is unlikely.
Why would a terrorist set a bomb on a slow fuse? How would security agents know to arrest and interrogate him? Why would they decide to torture him? Would a trained terrorist disclose any useful information in time?

But the scenario is not just unlikely; it is also unrealistic given what we know about terrorism and about torture. It fails the test of realism on three fronts. First, the historical record provides not a single case in which a terrorist organization has attempted, let alone succeeded, in obtaining, deploying, or detonating a nuclear device. Nor have U.S. intelligence agencies shared concrete information about any attempts to secure such a device. This is not surprising. Nuclear weapons are expensive, difficult to obtain, maintain, and operate, and they do not serve the purposes of terrorists very well. The goal of a terror organization is not to generate mass casualties, but to instill fear. As al-Qaeda demonstrated, this does not require sophisticated fission bombs: box cutters smuggled onto airplanes will achieve the same result.23

Of all known terror movements, only one has executed a large-scale attack using weapons of mass destruction. In 1995, members of a Japanese cult group, Aum Shinrikyo, released about one gallon’s worth of toxic sarin into the Tokyo subway system at rush hour.24 The attack killed 12 people. This does not rise to the level of casualties envisioned in the ticking bomb scenario. Even those policymakers who would endorse torturing a suspect to save thousands of lives would presumably balk at torturing to save a dozen individuals.

In 2003, the FBI suspected that al-Qaeda had developed “crude procedures” to produce poisoned gasses such as mustard gas, sarin, and VX. If these suspicions were correct, al-Qaeda would have had to produce, store, deliver into the United States, and then release hundreds of gallons of toxins in order to kill the thousands of civilians envisioned by U.S. ticking bomb alarmists. It is no wonder that no such plot has ever been substantiated. Instead, the scenario has been used to justify torture to save individuals, such as Wachsman and Metzler, or to foil conventional terror attacks, as in the Murad and Za’atari cases.

A second reason why the ticking bomb scenario is unrealistic, and not just unlikely, is that it envisions an impossible timeline. Setting aside the chimera of a slow-burning fuse and swiftly deploying interrogation and bomb-disposal units, it is the quick and effective torture that stretches incredulity. Torture can be effective, at times, in obtaining intelligence. But it is very, very slow. When it works, it yields results after weeks and months, not hours, as evidenced by the torture of terror suspects after 9/11. Senior al-Qaeda operative Abu Zubayda was in U.S. custody for two months before he submitted to his interrogators.25 Khalid
Sheikh Mohammad, one of the primary planners of the 9/11 attacks, endured a month of gradually escalating torture, culminating in waterboarding, before sleep deprivation ultimately coerced his cooperation. Al-Qaeda terrorist Muhammad al-Qahtani endured 40 days of sleep deprivation, 54 days of torture, and 64 days of isolated imprisonment before he spoke. Senior al-Qaeda member Omar al-Faruq was tortured by the CIA for three months before he began to cooperate. Jamal Beghal, an al-Qaeda operative who could have led interrogators to Mohammad Atta’s cell in Hamburg, was arrested on July 28, 2001, but his interrogation proved too time consuming: he finally began cooperating on September 23.

Torture yields slow results not just because terrorists are trained to resist it, but also because its primary effect is psychological and not physical. Contrary to popular perception, it is not pain that elicits cooperation but prolonged isolation and fear of future torture. Detainees do not scream out their confessions while they are being tormented. The pain involved is often too great to permit speech, let alone coherent speech or the accurate recollection of details. Instead, interrogators introduce pauses between torture sessions in order to elicit cooperation. They threaten coercion, perhaps by exposing the detainee to the instruments of torture or the sounds of others being tortured, or by threatening the repetition of prior torture. Prolonged detention, gradual escalation, and recurring pauses are the key components of torture. These take time. Even when torture works, it is extremely time consuming.

The third reason why the ticking bomb scenario is unrealistic has to do with the complex realities of processing intelligence. Like intelligence obtained by other means (be it electronic surveillance or satellite imagery), most of the information obtained from torture takes the form of modest, incomplete, or misleading scraps of information. Intelligence sources do not provide decisive answers. Instead, the job of intelligence analysts is to assemble snippets of evidence from different intelligence sources, some more reliable than others, into a less-than-hazy depiction of future threats. This requires distinguishing true from false leads, arbitrating between conflicting pieces of information, and bringing data from different sources into accord with one another. Torture proponents who trade in the ticking bomb metaphor expect torture to provide all the information to dismantle a bomb: its type, location, time to detonation, and mechanism in sufficient detail to enable experts to defuse the bomb. This supposes that interrogation is like finding the right key for a particular lock. This is a false metaphor. In reality, there are multiple locks and keys, and no single key suffices to open any one lock. The right metaphor for intelligence work is assembling a semi-coherent puzzle out of too many pieces, most of which are from the wrong puzzle. For example, locating Osama Bin Laden reportedly involved interrogating 25 detainees, 13 of which underwent some form of
torture. Some of these interrogations provided minor clues while others yielded false and even intentionally misleading information. No single detainee revealed the location of Osama Bin Laden. No single terrorist will provide the evidence necessary for stopping a terror attack. The information one might provide, if true and useful, would require weeks if not months to extract, and further weeks if not months to corroborate, correlate, and interpret.

Dismantling the Metaphor

When French novelist Jean Lartéguy first conjured up the modern incarnation of the ticking bomb scenario in 1960, he envisioned a French torturer who succeeds in extracting the locations of 15 bombs from an Algerian terrorist overnight. All 15 bombs are located and disarmed the next day, prior to going off. This is the stuff of novels. In reality, no case has ever come close to meeting most, let alone all, of the characteristics of a ticking bomb setting. It was and remains a fantasy.

Why does this matter? Because in addition to being disconnected from reality, this myth fails to address deep ethical issues surrounding torture: How confident can we be that we are torturing the right person? Should we try noncoercive means first? Won’t this lead to the institutionalization of torture? And yet, the myth wields a hypnotic influence on policy. George W. Bush’s Secretary of Homeland Security, Michael Chertoff, former Justice Department lawyer John Yoo, and the late Supreme Court Justice Antonin Scalia, all cited Jack Bauer from 24 and his response to ticking bomb scenarios as inspiration for their own thinking about torture. In his CIA director confirmation hearing, David Petraeus, otherwise a prominent torture opponent, noted: “You have the individual in your hands who you know has placed a nuclear device under the Empire State Building. It goes off in 30 minutes, he has the codes to turn it off. I think that is a special case. I think there should be discussion of that by policymakers and by Congress. I think that it should be thought out ahead of time. There should be a process if indeed there is going to be something more than, again, the normal techniques employed in such a case.”

The ticking bomb scenario is pernicious because it invites slippery slope arguments about the permissibility of torture. In the absence of the primary conditions for a true ticking bomb scenario, U.S. decision makers have successfully stretched the metaphor beyond recognition to justify their policies. Since terrorists have not deployed
weapons of mass destruction, the term “ticking bomb” has been extended to all impending terror attacks, regardless of the nature or lethality of the device. Because torture is slow, interrogators have applied the “ticking bomb” label even to the prevention of attacks scheduled for a distant or unknown date. And since torture can never reveal all the information necessary for preventing an attack, even fragments of intelligence extracted by means of torture are hailed as examples of dismantled ticking bombs. As an Army interrogator in Iraq recalled: “When the infantry brought us a prisoner, and said that he was an insurgent, often-times all we could hear was the ticking of a bomb.”

Indeed, even when interrogators are uncertain about all three conditions at the same time—the type, timing, and likelihood of attack—they are quick to invoke the old trope. James Mitchell, credited with developing and implementing much of the CIA’s coercive interrogation protocol, writes about the immediate aftermath of 9/11: “The CIA had reliable intelligence indicating that a catastrophic attack, possibly involving a nuclear device, was in the works and could occur at any moment.” (Italics added for emphasis.) He concludes: “For many at the CIA it felt like a ticking time bomb scenario.”

Philosophers invented the ticking bomb scenario as a whimsical thought experiment to prompt us to deliberate in the abstract about ethical decision making. Such ethical puzzles, like tough decisions about who to put in a crowded lifeboat or how to direct an out-of-control street trolley, are powerful because they force us to contemplate moral choices under impossible circumstances, not because they help us make policy. We do not operate cruise boats or streetcars based on the lifeboat and trolley scenarios. Neither should we justify torture based on the myth of the ticking bomb.

Notes


2. The argument is also known as the “ticking time bomb” but the word “time” seems redundant. For their assistance in surveying this extensive literature, I am indebted to Rudrani Ghosh and Emmanuelle Le Chat. I thank Jay Paxton for his valuable insights into the policy implications of my argument.


5. My calculation is based on a Lexis-Nexis search of worldwide newspaper articles in English that contain both the terms “torture” and “ticking bomb.” Thirty such articles appeared in the period 1992-2001. A total of 478 articles have appeared since then, 2001-2017.


18. Rejali, 507–508; McCoy, 112; and Allhof, 166.


32. Rodriguez, 103; and Charles Fried and Gregory Fried, Because It Is Wrong: Torture, Privacy and Presidential Power in the Age of Terror (New York: W. W. Norton, 2010), 69.


34. Senate Select Committee on Intelligence, “Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program,” December 2014, 390. This report places some of this information in doubt. Former CIA heads, in turn, have criticized this report for its inaccuracy and bias. Tenet et al, “Ex-CIA Directors: Interrogations Saved Lives.”

35. The novel is Le Centurions by Jean Lartéguy. See Darius Rejali, “Torture Makes the Man,” South Central Review 24, no. 1 (Spring 2007), 151–152.

36. Lithwick; and Mayer, 196.

