

# Torture and the Ticking Bomb, by Bob Brecher: A Review

Daniel Robert Aswani  
Daystar University  
Kenya  
Email: [ranaswa@yahoo.com](mailto:ranaswa@yahoo.com)

Bob Brecher's *Torture and the Ticking Bomb* (122 pages) (Oxford: Blackwell Publishing, 2007), paperback, US\$ 18.00 ISBN 978-1-4051-6202-9

A number of terror attacks have furthered the notoriety of terrorists. Such attacks include the ones in Bali, London, Nairobi, Kikambala, Dar-el-salaam, Kampala, New York, the fortune spent to bring down Osama bin Laden and more recently the sporadic terror attacks in different towns in Kenya culminating in the Westgate attack. Immediately after the 9/11 bombings, the then US President, George W. Bush declared that — in the war against terror — countries were either with the USA or with the terrorists. This declaration created an equal and opposite assumption that 'those' fighting terror were thereby justified in the manner they terror suspects. As a result, dangerous escapades have been reported in Afghanistan, Pakistan and Iraq. Simultaneously, tales of torture have surrounded the debate on the rationale of holding suspects at Guantanamo Bay. In a nutshell, the role of interrogators has come under sharp focus particularly in the inhumane manner that terrorism suspects have been handled. Complaints have ranged from rendition to torture. The role of the investigator in torturing a suspect, or what has been called interrogational torture, has been a topic of discussion in many civil society engagements around the globe.

The war on terror and specifically interrogational torture is quickly turning into an academic discourse. Scholars have been putting their best arguments forward — either in support of or against torture. The debate revolves around whether torture is a moral issue and whether or not it should be institutionalized by law (such as through torture warrants) or whether it is justified by scenarios such as the ticking bomb. Bob Brecher's book unequivocally implores upon the philosopher to consider the different claims laid by either side of the debate before making a reasonable verdict — that interrogational torture is unjustifiable. Brecher is radically opposed to interrogational torture and contributes to scholarship by employing logic to investigate a matter that is largely emotive yet topical.

Brecher proposes an interesting scenario which he calls a ticking bomb. In this scenario, we are invited to sojourn with the writer in a case where a bomber(s) has planted a bomb in whose general (not specific) location the police are aware. Luckily the police have arrested the perpetrator or his accomplice and now seek information that would help them detonate the bomb before it kills many people. Are the interrogators justified to torture the suspect or seek torture warrants? Apologists of interrogative torture such as Alan Dershowitz, a long standing civil rights lawyer, are opined that governments should legalize interrogational torture, through the issuance of torture warrants. In line with utilitarianism, institutionalization ought to be based on situations where torture would be for the greater good which (or where torture is the lesser evil). Proponents of torture argue that scenarios present moral dilemmas and the rational thing to do is to choose the option with the lesser evil.

To build his view on institutionalized interrogative torture, Brecher makes a distinction between morality and law — which is in the same tradition as that adopted by Odera-Oruka in his book *Ethics*, only that Odera-Oruka factored in religion as an intervening variable. To ground his thesis on institutionalization of the practice, Brecher underscores the role of the term 'normal'. The term 'normal' carries both a statistical as well as moral significance.

For instance, when one argues that marriage is normal, such a person means that marriage is common (statistically) and acceptable (moral permissible). We can therefore argue that marriage has been institutionalized. To institutionalize a practice is to make such a practice socially acceptable (41). Normalizing a practice may invoke the use of legislation or simply carrying on a practice that was unknown or unusual as an ordinary practice. The latter formulation could include cases such as flying in an airplane. Many years ago, the practice was unknown but today it is socially acceptable.

In a debate that either attaches moral consideration or purely treats torture as a legal issue, Brecher argues that ultimately, the institutionalization of interrogational torture is legalizing immorality. The reader is treated to the utilitarian philosophical underpinnings for interrogative torture where 'those who advocate interrogational torture, whether

legalized or not, simply assume some variety of a utilitarian understanding of morality: if the benefit of an action outweighs its disbenefits (*sic*), then that action is morally justified' (12). While the theorists use act utilitarianism, Brecher argues against the position since act utilitarianism lacks the constraints obtainable in rule utilitarianism and other moral principles since it affirms that as long as the number of those tortured should be less than the one the torture will save from horrendous acts. The text further portends that asserting that utilitarianism is the way to assess the moral basis of interrogative torture, as though it is the only medium, is misleading since not everyone applies the utilitarian principle in their action.

To ground the epistemic thesis of his book, Brecher argues that perception is totally different from reality. What we conceive of situations is different from what situations are. When the advocates of interrogative torture present 'ticking bomb' illustrations, they emotively try to hook their listeners so that postulations are assumed as realities. It is in this regard that Brecher advises those seeking philosophic contemplation to remember that they have a responsibility to engage in public life with caution knowing full well that whatever is conceptualized may not necessarily be the reality (86). Epistemologically, the reality of a terror act involves the belief that the act occurred or is likely to occur and that that belief is true. Correspondingly, if the case is for a ticking bomb, then the person in the custody of police must be in possession of requisite information that will enable the police within the reasonable time to save humanity by detonating the bomb. Such an incident must have occurred or is about to occur and not a mere speculative conjecture.

Whereas torture is intended to destroy the victim's normative relation to the torturer, and thus to the person and identity of the victim (76), Brecher confronts a real situation where torture may be permissible. He gives a captivating example of the happenings in 2002 in Germany. In a kidnapping case, the German police monitored Magnus Gäfgen collect ransom in order to free Jakob von Metzler — an 11-year-old son of a banker whom he had kidnapped — and ceasing the opportunity and arresting Gäfgen, he refused to reveal where the boy was held. The head of police ordered that Gäfgen be tortured to obtain some information but at the time information came, the boy had died (86). While one would expect Brecher would be so forthright and spend considerable time in expounding the basis of the justification of torture in real cases, he successfully confines himself to interrogative torture for ticking bomb situations thereby leaving the reader yearning for a gruesome discussion.

Overall, the argumentation of Brecher will attract the philosopher. He ties his arguments well and backs them up with appropriate examples. He utilizes the arguments of utilitarianism to pass across a message and argues that he had to get his hands intellectually dirty if he was to write something worthy being read (88). Some of his formulations are sketchy, for instance, he struggles with the definition of torture preferring instead to describe the term. The next time he offers a description it turns out that it is a definition (5). In G. E. Moore's sense, both the actions suffice to explain a concept and there is no need to belabor a tautology. Similarly, some arguments are fallacious in a sense.

Without giving a basis for his argument, Brecher insists that legalizing torture will create a moral duty that would soon spread to doctors, nurses, judges, lawyers and other support staff (72). Such formulation borders a slippery slope argument- all in defiance of arguments set forth by interrogational torture proponents.

Terrorism is a contemporary topic in many disciplines. In Philosophy and particularly ethics, acts of terror introduce aspects of human rights violation and in its train tortuous interrogation, rendition, murder, and illegal confinement. The world today has to contend with ethical issues and principles that guide the judgment of governments and the actions of government agencies. This book serves as an example of applied philosophy where issues of war on terror are considered. Reading the text gives interplay between theory and praxis — where the reader can see the veracity of arguments advanced by early and contemporary thinkers when their thoughts are applied to contemporary ethical issues. In a sense the book brings out the relevance of philosophy in the society which is food for thought for the sceptic out there who sees no relevance in studying philosophy. Brecher achieves the aims he set for himself although he leaves room for more academic quest on the reasoning or justifications of torture in real cases.