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# The Fall and Rise of Torture: A Comparative and Historical Analysis

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The Fall and Rise of Torture: A Comparative and Historical Analysis<sup>\*</sup>  
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## **The Fall and Rise of Torture: A Comparative and Historical Analysis**

Abstract:

Torture was formally abolished by European governments in the nineteenth century, and the actual practice of torture decreased as well during that period. In the twentieth century, however, torture became much more common. None of the theories that explain the reduction of torture in the nineteenth century can explain its resurgence in the twentieth. This paper argues that the use of torture follows the same patterns in contemporary times as it has in earlier historical periods. Torture is most commonly used against people who are not full members of a society, such as slaves, foreigners, prisoners of war, and members of racial, ethnic, and religious outsider groups. Torture is used less often against citizens, and is only used in cases of extremely serious crimes, such as treason. Two general twentieth century historical trends have caused torture to become more common. First, an increase in the number and severity of wars has caused an increase of torture against enemy guerrillas and partisans, prisoners of war, and conquered civilian populations. Second, changes in the nature of sovereignty have caused an expansion in the definition of acts constituting treason.

# **The Fall and Rise of Torture: A Comparative and Historical Analysis**

## **I. Introduction:**

In 2004, the world was shocked by the sight of photos of torture conducted by United States soldiers at the Abu Ghraib prison in Iraq. Later news stories revealed that British soldiers had tortured Iraqi prisoners of war as well, and that U.S. forces had tortured prisoners in Afghanistan and at the U.S. military base at Guantanamo Bay, Cuba (Danner 2004; Greenberg and Dratel 2005). These events have opened up an extensive public and academic debate about torture. Most Americans have expressed shock and disbelief that American citizens could inflict such terrible tortures on other human beings. Foreign critics of the United States have claimed that the acts of torture demonstrate the United States' racism, imperialism, and hypocrisy, and some have used the incidents to devalue Western conceptions of human rights in general. Even before Abu Ghraib, some scholars argued that there is little difference between liberal democracies and other societies in the use of torture, or that there has been no progress in the modern period in the eradication of torture. The photos from Abu Ghraib seem to support this claim.

This paper investigates the problem of the continuing prevalence of torture in the twentieth century, including torture committed by liberal democracies. It attempts to answer the question of why torture continues, despite its formal abolition, and why the practice of torture actually increased in the twentieth century over the nineteenth. The paper is structured as follows. I first offer a sociological definition of torture, and address some methodological problems inherent in making historical arguments about torture. I then review four theories of the abolition of torture. These theories succeed in explaining the decrease of torture in the nineteenth century, but fail to explain its resurgence in the

twentieth. I also review Rejali's argument (1994) that torture did not decrease during the transition to modernity but only changed in character. While this argument has some validity, I argue that it is incomplete, and I offer my own argument for the fall and rise of torture.

I propose that there are general patterns in the practice of torture, which predict the use of torture across societies and time periods, and that the rise of torture during the twentieth century can be explained by reference to these general patterns. During the past century, as in earlier historical periods, governments have used torture less often against their citizens, but more often against people who are not full members of a society, such as slaves, foreigners, prisoners of war, and members of racial, ethnic, and religious outsider groups. When torture is used against citizens, it is most commonly used in response to extremely serious crimes, such as treason, and where the state is perceived to be under threat.

The rise of liberal democratic states during the twentieth century has caused a decrease in the practice of state torture against citizens, but this decrease has been offset by three other developments that have caused an increase in torture. First, changes in the quantity, intensity, and nature of military conduct have led to an increase of torture of prisoners of war and the civilian populations of occupied territories. Second, the prevalence of civil conflicts in states divided along racial, ethnic, and religious lines may explain some of the incidence of torture in the twentieth century. Finally, changes in the nature of the sovereign have brought about an expanded definition of treason, and states have also become more effective at monitoring and prosecuting treason.

### Defining Torture:

Societies and legal systems have employed a wide variety of definitions of torture at different points in history, and have also differed on whether torture is viewed as a valid legal tool or a prohibited and immoral practice. Scholars of torture sometimes use poorly articulated definitions of torture (Asad 1996), or draw their definitions directly from legal practice (Langbein 1977; Ruthven 1978). To make cross-cultural and historical comparisons, it is necessary to adopt a single definition of torture that will apply in all cases.

The contemporary legal definition of torture, contained in the United Nations Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment and Punishment,” is:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him 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. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

As this definition rests on modern, Western standards of morality and law, it is not useful in a cross-cultural, historical study of torture. The legal definition is also problematic in that it makes the motive of the person inflicting the “severe pain and suffering” essential to the definition of torture, as motive may be impossible to determine in many historical cases.

To make cross-cultural and historical comparisons possible, this paper defines torture in terms of behaviors alone, leaving out questions of morality or motive. Torture is an act in which severe physical pain is intentionally inflicted on a person by a public official while that person is under the custody or control of that official, where there has not been, or has not yet been, a formal finding of guilt. This is a very narrow definition of torture, as it excludes psychological torture, corporal punishment made after a formal finding of guilt, and physical pain inflicted by non-governmental actors. This narrow definition is used in order to include only those actions that nearly all societies would agree were torture. A narrow definition also makes it possible to focus the analysis, an important consideration in that the range of societies studied in this paper is so broad. Cross-cultural and historical studies of corporal punishment, the death penalty, genocide, massacres of enemy civilians and prisoners of war, the infliction of physical pain by non-governmental actors, and psychological torture would also be important and useful, but are beyond the scope of this paper.

To further clarify the definition of torture, it is helpful to examine what actions would not qualify as torture under this definition. These include injuries suffered accidentally by a prisoner in custody, and interrogation without violence or the infliction of pain. Pain inflicted by a police officer in the course of apprehending a suspect who is struggling or attempting to escape would not be torture, unless of course the police officer continues to inflict pain after the subject is under the police officer's control. Painful types of religious penance, where the penitent person accepts the infliction of harm by a religious leader, are not torture, as the person undergoes the pain voluntarily. Finally, medieval ordeals are not considered torture, even though some ordeals involved

pain, as inflicting pain was not the goal of the ordeal. Instead, pain was an incidental part of a procedure designed to ascertain God's opinion of whether the person was truthful or untruthful, guilty or innocent. Some ordeals, such as the ordeal to test for witchcraft by having a suspected witch float in water (on the theory that water would "reject" a witch as unnatural and a witch would float), did not involve pain at all, demonstrating that the infliction of pain was not a necessary component of the ordeal (Bartlett 1986; Langbein 1997:76-7; Nock 1993:75-108).

There are striking similarities in the methods of torture used across societies, which can probably be explained by the limited range of ways one can inflict pain on the body without causing life-threatening damage. Common forms of torture include beatings, the application of electrical shock, rape and sexual assault, the infliction of burns, painful stretching of the limbs, crushing of the body or parts of the body, near-drowning, and being forced to maintain an uncomfortable position for a painfully long period of time (Forrest 1996; Amnesty International 2000). Excessively harsh conditions of imprisonment can also be seen as torture, although what is considered "excessive" may vary from individual to individual and by societies.

Torture methods used in contemporary times resemble those used in earlier historical periods, with some exceptions. Rape and sexual assault seem to have been less common during historical periods and in cultures where torture was legal and formally regulated, although it is possible that sexual torture and rape were widely practiced but not recorded in historical documents. The most significant recent innovation in torture methods is electric shock torture, a widely used current technique that was not available before the twentieth century. The popularity of electric shock torture, as well as some



purely psychological forms of torture such as sleep deprivation and sexual humiliation, can be explained in part by the rise of human rights monitoring. Since human rights advocates have made it politically costly for regimes to use obviously detectable torture methods, some regimes have responded by adopting electric shock torture and other methods that do not leave visible scars (Rejali 2003, 2006; Ron 1997).

While the definition of torture used here does not incorporate any assumption about the motive of the torturer, several motives are commonplace. These include gathering information, forcing confessions, asserting social control through the spread of terror, and punishing people who are considered enemies of the state. Within this essay, physical harm is considered torture only if inflicted before or in lieu of a formal finding of guilt. Physical harm inflicted after a judicial finding of guilt is defined as corporal punishment, not torture.

#### Methodological problems in studying torture:

This essay takes its title, “The Fall and Rise of Torture,” from the assertion of some historians that torture was fully abolished in theory and nearly abolished in practice in nineteenth century Europe, only to return with a vengeance in the twentieth century (Peters 1996:97-105; Ruthven 1978:173-4, 281-298). It is not clear whether the practice of torture outside of Europe followed the same pattern, and the limitations of the historical record probably render this question unanswerable. One expert on the use of quantitative data for the study of human rights states that statistics on human rights violations “simply do not exist in any systematic form” before the twentieth century. Even in the twentieth century, accurate statistics are impossible to obtain, given how

careful governments have been to conceal their acts of torture from the international community (Goldstein 1992:42-7).

While the deficiencies of the historical record make it impossible to generate numerical estimates of the prevalence of torture, enough evidence exists, in the form of general historical accounts and case studies, to detect trends and draw some general conclusions.<sup>1</sup> Torture was legal, morally accepted, and commonplace in most ancient, medieval, and early modern societies. Torture was banned in the West in the eighteenth and nineteenth centuries, and its practice within Western countries decreased during this time; whether torture was common in the non-Western world during the nineteenth century is not clear. During the twentieth century, torture increased greatly in Europe with the rise of Communist and Fascist states and the coming of the two World Wars, and then decreased again after the defeat of the Axis powers in 1945 and the fall of communism in 1989. In the non-western world, torture was common throughout the twentieth century, representing either an increase over or a continuation of nineteenth century practices. Today, torture is rarely practiced by liberal democracies against their own citizens, but occasionally practiced by liberal democracies against suspected terrorists and prisoners of war. Torture is widely practiced by non-democratic governments, against foreigners and citizens alike.

#### Review of the Literature:

Despite the importance of the topic, there are relatively few sociological works on torture, and fewer that are cross-cultural or comparative historical in focus. Some psychologists and sociologists have tried to understand the motives and thoughts of

torturers (Conroy 2000; Gibson 1997; Haritous-Fakouros 2003; Huggins 2002; Huggins et al. 2002), and have examined torturers' social construction of reality (Abrahamian 1999; Crelinstein and Schmid 2003; Taussig 1984). Others have described torture as a ritual that establishes community boundaries, unites members of the community against transgressors, and establishes social hierarchies (Abrahamian 1999; Collins 1974; Gregory and Timmerman 1986). Scarry (1985) has described how torturers use pain to destroy victims' sense of self, voice, and reality. Finally, political scientists and political sociologists have described the social and political factors that predict the prevalence of torture and other human rights abuses within countries in the contemporary world (Cingranelli and Richards 1999; Gomez 2004; Henderson 1991; Howard and Donnelly 1986; Mitchell and McCormick 1988; Poe and Tate 1994; Poe, Tate, and Keith 1999; Walker and Poe 2002).

A number of historians and sociologists have described and discussed the reasons for the formal abolition of torture in the modern West (Foucault 1977; Langbein 1977; Peters 1996; Rejali 1994; Ruthven 1978; Silverman 2001). While these works offer valuable insights into the factors leading to the abolition of torture in law and the decrease of torture in practice, they do not help to explain why the use of torture increased in the twentieth century. Only Rejali (1994, 2006) grapples with the issue of the continuing use of torture in contemporary times, but he focuses on the methods, meaning, and goals of torture, not on prevalence, and thus does not try to answer the question of torture's decline and reapperance.

Patterns in the use of torture, and the rise of torture in the twentieth century:

To answer the question of torture's persistence and resurgence in the twentieth century, this paper takes a comparative historical approach, analyzing existing secondary sources to find general patterns in the practice of torture across cultures and time periods.<sup>2</sup> Four general patterns can be discerned:

1. Torture is most commonly used against people who are not full members of a society, such as slaves, foreigners, prisoners of war, and members of racial, ethnic, and religious outsider groups.

2. Torture is used more rarely against members or citizens of a society. In this case, two special conditions must apply:

- a. Torture is only used after a finding of probable guilt, and
- b. Torture is only used in cases of extremely serious crimes, particularly heresy and treason.

3. Torture is more commonly used when a government or society perceives itself to be under threat.

4. The rise of human rights norms, and the increase in the number of liberal democratic states, have had a significant impact in reducing torture. Liberal democratic states do sometimes engage in torture, but do so much less often than other states, and almost never use torture against their own citizens. When they do engage in torture, it is primarily against non-citizens and under conditions of extreme threat, such as in response to terrorist attacks.

While liberal democratic states use torture against their own citizens much less often than other states, liberal democracy does not by itself guarantee that torture and other forms of violence will not occur. The United States, Great Britain, and France have

used torture extensively in the context of foreign wars and in maintaining control of colonial possessions. They have also used torture against marginalized groups in their own territory, as in, for example, the use of torture by U.S. policemen to maintain order and extract confessions from criminal suspects (Rejali 2006). Liberal democracies have also engaged in many other violent acts against non-citizens, including the murder and displacement of indigenous peoples, violent control of colonial subjects, massacres of prisoners of war, and aerial bombing campaigns and other violence against enemy civilian populations. The use of violence against people considered “other” is particularly problematic in what Cingranelli and Richards (1999) term “illiberal democracies,” where elections occur but the other features of liberal democracy, such as minority rights, the rule of law, and an independent judiciary, are not present (see also Mann 2006). While the full range of violations against personal integrity committed by democracies is outside of the scope of this paper, it is important to keep in mind that liberal democratic governments tend not to abuse their own citizens but do engage in atrocities against those not considered members of society.

While exact statistics on the historical prevalence of torture cannot be determined, the available evidence suggests that torture decreased in Europe during the eighteenth and nineteenth centuries, as it came to be legally abolished throughout the continent, and then increased greatly in the twentieth century. Elsewhere in the world, torture either remained high or increased from the nineteenth century to the twentieth. The increase can be explained by reference to the first two general rules cited above, and results from three types of historical change:

1. Torture against non-citizens (prisoners of war and enemy civilians): Increases in the quantity and intensity of military conflict between the nineteenth and twentieth century, and changes in the nature of military conflict, have led to an increased use of torture against prisoners of war and the civilian populations of occupied territories.

2. Torture against citizens who are not full members of society (members of racial, ethnic, and religious outsider groups): The prevalence of civil conflicts in states divided along racial, ethnic, and religious lines explains some of the incidence of torture in the twentieth century.

3. Torture against citizens suspected of treason: Changes in the nature of the sovereign have brought about an expanded definition of treason, and states have also become more effective at monitoring and prosecuting activities seen as treasonous. This change explains much of the increased or continued prevalence of torture in the twentieth century.

#### Torture in the ancient and medieval world:

A brief review of the practice of torture in the ancient and medieval world reveals how the first three patterns above describe the prevalence of torture. Citizenship generally protected individuals from torture. When citizens were tortured, it was generally because they were suspected of having committed an extremely serious crime, such as treason or heresy, and often only when evidence already existed to demonstrate probable guilt. On the other hand, torture of non-citizens such as slaves, foreigners, prisoners of war, and members of outsider groups, was common. While there have been relatively few case studies of non-Western torture, those studies that do exist show that

torture followed the same general pattern in the rest of the world as it did in Western Europe.

In the ancient and medieval world, citizenship was the main determinant of protection from torture, as citizens were generally given immunity from torture or could only be tortured in very rare circumstances. In ancient Greece, citizens could never be subjected to torture, but slaves and foreigners could be tortured under a wide range of circumstances. Not only could slaves be tortured in criminal cases, but they could also be tortured when serving as witnesses in civil suits between free men. Normally, slaves were not allowed to testify in these suits, as they were non-citizens, but the use of torture was thought to lend credibility to the slave's testimony, and made their testimony admissible. Little importance or moral objection seems to have been placed on the physical pain suffered by the slave (DuBois 1991; Peters 1996:11-18; Ruthven 1978:23-8).

The Roman Republic and early Empire prohibited torture against citizens, except in the case of treason, but this changed in the late Roman Empire, as the number of Roman citizens grew and the category of citizen became divided into two classes. *Honestiores*, or first-class citizens, could not be tortured except in cases of treason, but *humiliores*, or second-class citizens, could be tortured in criminal cases, if the crime was serious and some evidence already existed to indicate guilt (Garnsey 1970:141-7; Peters 1996:18-33; Ruthven 1978:28-38). In the early Roman Empire, state authorities also periodically tortured Christians, whose refusal to worship the Emperor was considered to be a type of treason. Pagans feared that the gods would be angered by the Christians' refusal to pay homage to them, and when natural disasters occurred, pagan authorities

sometimes tortured and executed Christians, as a way of appeasing the gods (De Ste. Croix 1999).

Torture was rarely practiced in early Medieval Europe, and was generally only practiced against non-citizen groups, such as slaves and foreigners. In certain limited cases citizens could be tortured as well, primarily when there was strong evidence indicating that they had been guilty of treason. Torture was also occasionally used against citizens who were repeat criminals, or persons infamous for their poor moral character. In these cases, the citizens' prior criminal record or bad reputation, combined with circumstantial evidence, indicated probable guilt and thus made torture permissible (Peters 1996:36-9).

Beginning in the twelfth century, torture came to be used more frequently on citizens, both for ordinary criminal offenses and for the special crimes of heresy and witchcraft. As John Langbein (1977) has explained, the unusually high prevalence of torture in Medieval Europe resulted in large part from the unusual characteristics of the Medieval legal code, particularly its use of an exceptionally high standard of proof. For medieval judges to find an accused party guilty, they needed to have either a confession or the testimony of two eyewitnesses to the crime. If there was much circumstantial evidence that indicated guilt, but no eyewitnesses or only one eyewitness, judges were not able to reach a finding of guilt if the accused party maintained his or her innocence. In these cases, judges would sometimes authorize torture to compel a confession. In Medieval Europe, as in previous historical periods, a citizen accused of a criminal offense could only be tortured if other evidence made his guilt seem probable.



The torture of citizens was also commonly practiced in cases of witchcraft and heresy. Witchcraft was seen as a type of devil-worship, or treason to God in favor of demonic powers. Heretics were also seen as traitors to the church, when they persisted in their heresy despite instruction from church officials. The efforts that heretics made to keep their beliefs secret made it particularly threatening, and the supposedly seductive, contagious nature of heresy made it seem that there was a real danger of heresy spiraling out of control, like a epidemic disease. Heretical religious movements were often identified or aligned with peasant rebellions and other political movements, making them a threat to the both ecclesiastical and secular authorities. Since heresy was so threatening and so difficult to detect, civil and ecclesiastical officials authorized the use of torture on much weaker evidence than would be allowed in other sorts of cases. In theory, only when enough circumstantial evidence had been accumulated to demonstrate probable guilt was torture ordered to produce a confession. In practice, however, the rules of evidence were loosened to such a degree that many people were tortured on the basis of extremely light evidence.

To escape the pain of torture, accused heretics and witches often admitted guilt, and acquiesced to officials' demands to name other guilty parties. The named parties were arrested and tortured in turn, creating an expanding circle of false accusations and confessions. Some contemporary jurists, scholars, and officials realized that the torture of suspected heretics created false confessions, and took steps to reform the system, but the problem was never really solved. Only with the end of the practice of torture, and the end of trials for witchcraft and heresy, did the problem of false confessions go away (Ruthven 1978).

While the evidence available is limited, it seems that in non-Western societies of the ancient and medieval world, torture was also used primarily against non-citizens, and was only used against citizens in cases where a confession was needed for a conviction, but other evidence made guilt seem likely. The political authorities of the Ottoman Empire used torture, despite the fact that traditional Islamic law considered confessions made under torture to be invalid. The Ottoman authorities used torture in cases where the accused had a prior criminal record, in cases where the suspect had given contradictory testimony that seemed to indicate guilt, and in cases where there was strong circumstantial evidence but no confession (Peters 1996:92-3). In Medieval Japan, as in Europe, a confession was required for a conviction, and torture could be used in cases where circumstantial evidence indicated probable guilt but the accused party refused to confess (Peters 1996:93-4). Similarly, in nineteenth century Iran, torture was allowed only under strictly regulated conditions, where evidence already existed to indicate probable guilt (Rejali 1994).

In summary, the practice of torture in ancient Greece and Rome, continental medieval Europe, and medieval Japan, Iran, and the Ottoman Empire, followed the general patterns described above. Torture of slaves, foreigners, and prisoners of war was common. Torture of citizens was rare, and was only used in cases of serious crimes, where probable guilt had been established. In at least one case, the torture of heretics in twelfth and thirteenth century France and Italy, torture was used extensively against citizens. This can be explained both by the seriousness of the crime of heresy, a type of treason, and by the perception that heresy represented a severe threat.

### The abolition of torture in the modern West:

The practice of torture remained legal during the early Modern period, but its use in Europe slowly declined. European governments started to ban torture during the 18<sup>th</sup> century, and by 1851, torture was illegal throughout the continent. At the time, reformers urged the abolition of torture on practical and moral grounds, and in adopting their recommendations, governments emphasized their progressivism and humanity. Nineteenth century scholars took these explanations of the abolition of torture at face value, and interpreted the abolition of torture as evidence of humankind's progress towards a more enlightened and humane future.

Contemporary scholars have been skeptical of this explanation of the abolition of torture, and have proposed several alternative explanations. The first of these lines of explanation, proposed by the historian John Langbein, argues that torture was abolished during seventeenth and eighteenth centuries because the standards of legal proof were relaxed to allow convictions without eyewitness testimony or confessions. These changes in procedure made confessions unnecessary, and thus made torture unnecessary as well. The second explanation, advanced by Lisa Silverman, states that torture was abandoned because a shift in cultural ideas about the value and meaning of pain deprived torture of its moral foundation. The third explanation, proposed by Michel Foucault, states that torture was abolished because the authorities found "disciplining" methods to be more effective than torture and corporal punishment in enforcing social control.

The traditional explanation for the abolition of torture dominated the legal and historical scholarship of the nineteenth and early twentieth century. According to this view, the first step in the process leading to the abolition of torture took place when rulers

began to standardize and rationalize local codes into a system of national laws. With the publication of comprehensive codes of law, jurists and scholars realized for the first time how extensively torture was being used in criminal trials. Legal reformers criticized torture for being inhumane, and argued in favor of gentler methods of punishment, such as imprisonment. They also argued that torture was unjust, as it amounted to punishment being inflicted before guilt was determined. Finally, reformers argued that torture was ineffective, since innocent people were likely to give out false confessions in order to escape the pain of torture, while hardened criminals might be able to resist the pain of torture and be exonerated. As Enlightenment ideas about rationality and the value of human life gained influence, and as legal reformers made increasingly persuasive arguments, European sovereigns were gradually convinced to abolish torture (Ruthven 1978; Peters 1996).

One of the most important critics of the traditional account the abolition of torture is the legal historian, John Langbein (1977). Langbein argues that torture was not abolished due to the spread of Enlightenment ideas, but due to a change in the standards of proof required for a conviction. During the early modern period, the requirement of two eyewitnesses or a confession was relaxed, so that circumstantial evidence or the testimony of one witness was adequate to bring a conviction. Once confessions became unnecessary, torture was abandoned. In Langbein's view, these practical concerns are the main explanation for the abolition of torture, and the reformers' efforts were only of marginal importance.

A second critic of the traditional view, Lisa Silverman (2001), explains the abolition of torture as a result of changes in perceptions of the value of pain. In the

medieval and early modern period, pain was seen as having value, as it helped bring about spiritual growth. Many people belonged to penitential spiritual movements, in which practitioners beat themselves with whips and undertook other painful self-punishments as a way of expiating sin. In a society that considered pain to have spiritual value, torture was seen to be not only a means of forcing a confession, but also a way to bring about penitence and spiritual renewal in the criminal. During the eighteenth century, the medical profession began to perceive pain as exclusively negative, and the medical view of pain as negative became influential in the wider culture. As this view of pain as negative spread throughout society, people came to view torture as a spiritually and morally valueless practice, and this change of views eventually caused torture's abolition.

The third alternative theory of the abolition of torture, that of Michel Foucault (1996), states that torture and corporal punishments were abolished because governments found more subtle and effective means to control their subjects. In pre-modern systems of rule, Foucault argues, punishments emphasized the power of the sovereign over the subject's body. Torture and corporal punishments, often carried out in public, symbolized and demonstrated the sovereign's power and control. During the modern period, governments realized that a more effective type of control could be obtained through more subtle methods. The new system relied upon surveillance and discipline, particularly self-surveillance and self-discipline, to guarantee the people's loyalty to the sovereign. New forms of control and punishment, such as the workhouse and the penitentiary, better fit the new methods of surveillance and control, and were adopted to replace torture and corporal punishment.

While scholars have intensively debated which of these theories is the most correct in explaining the abolition of torture, this paper does not join in this debate. The abolition of torture was a slow and complex process, and almost certainly had multiple causes. Each of the theories listed above probably has some explanatory validity. This paper focuses instead on a flaw common to all four theories: none of them can explain the sharp rise in the practice of torture during the twentieth century. If the traditional view is correct, and torture was abolished through the spread of Enlightenment ideas of rationality and the value of the individual, then torture should have remained rare during the past century, as these ideas continue to be influential. If, as Langbein argued, torture was abolished due to changes in legal procedures, then it also should not have recurred, as no legal system has returned to the standards of proof common in Medieval times. Silverman's theory likewise cannot explain the recurrence of torture, for there has not been any change in cultural ideas about the value of pain. Foucault's theory also fails to explain the recurrence of torture, as disciplinary methods remain as powerful and effective in contemporary times as they were during the early modern period.

One way of solving the puzzle of the fall and rise of torture is to argue that torture did not decrease at all in practice during the nineteenth century, even as it was formally abolished in principle. Some evidence supports this contention, as some nineteenth century European states continued to use torture against political opponents (Ruthven 1978:159-182; Peters 1996:97), and the police in Europe and the Americas used torture against criminal suspects to force confessions (Peters 1996:111-112; Rejali 2006). While torture did continue in some situations, the evidence suggests a true decline in the practice of torture during the nineteenth century in Europe and North America. The

practice of torture may also have decreased in non-Western countries and European colonies, but the historical record is so sparse on this point that it is difficult to state for certain.

Darius Rejali (1994) uses one particular non-Western case, that of Iran, to demonstrate that societies can make the transition to modernity without abandoning torture. Rejali agrees with Foucault that in making the transition to modernity, governments changed from using regimes of punishment to regimes of discipline and surveillance. He disagrees with Foucault that the abandonment of torture was a necessary part of this transition. Rejali demonstrates how modern Iranian governments did not abandon the practice of torture, but only changed it, using torture to discipline their subjects' minds, rather than make a public display of punishment of their bodies. Rejali does not attempt to quantify the practice of torture, however, and he does not address the question of whether torture declined in Iran before rising again in its contemporary form. Abrahamian (1999) states that torture in Iran did undergo a fall and resurgence just as torture did in the West, although the period of decline was brief and occurred in the early twentieth century. Further research is needed to determine whether torture went through a period of decline and resurgence in non-Western societies, or whether torture remained commonplace throughout the transition to modernity and only changed in form.

#### The rise of torture in the twentieth century:

While the extent to which torture actually decreased in the nineteenth century is uncertain, the historical record is clear on one point: torture was widely used throughout the world in the twentieth century. This prevalence has continued until the present time,

and the most recent Amnesty International report on the subject (2000) estimates that the governments of over 132 countries use torture. While government secrecy makes estimating exact levels of torture impossible (Goldstein 1992), Amnesty International, Human Rights Watch, Freedom House, and the U.S. Department of State have all released hundreds of reports on torture since these organizations began reporting on human rights abuses in the 1970's. Their reports indicate that torture has been widely practiced in many countries throughout the last three decades.

While torture has been common throughout the world during the twentieth century, the practice of torture has varied by region. In Europe, torture increased greatly in the twentieth century with the rise of communism and fascism. The fascist regimes of Italy, Germany, and their allies used torture and other terror techniques against political opponents, prisoners of war, populations of occupied territories, and members of outsider groups, such as the Jews. The Nazis used torture primarily against individuals from whom they needed information, such as Resistance members, and against Jehovah's Witnesses, to force them to name other members of the religion. When information was not needed, the Nazis more often used mass killings and reprisals, instead of torture, to intimidate and control conquered peoples (Delarue 1964; Foot 1976: 88-90; Johnson 1999; Liberman 1996; Peters 1996:124-5). Communist regimes in the Soviet Union and Eastern Europe used torture widely against political opponents (Amnesty International 1984; Brunner et al. 1990:423-7; Courtois et al. 1999).

In Latin America, torture occurred widely during the Cold War, as conservative governments cracked down on communist insurgencies in a number of countries, including Argentina (Feitlowitz 1998; Guest 1990; Lewis 2002), Brazil (Archiocese of



São Paulo 1986; Huggins 2002; Huggins et al. 2002), Chile (Ensalaco 2000) and El Salvador (Gomez 2003). In those countries where the insurgencies gained power, as in Cuba and Nicaragua, torture was often used by the new communist governments (Gomez 2003). In Asia, the Communist governments of China, Cambodia, Laos, Vietnam, and North Korea have used torture widely (Chandler 1999; Courtois et al. 1999; Seymour and Anderson 1998; Wu et al. 1988).

Both communist and non-communist states in Africa, the Middle East, and Asia have used torture widely against political opponents. However, the lack of information on the use of torture by nineteenth century governments and colonial powers makes it difficult to tell whether the high rate of torture in the twentieth century represents an increase over nineteenth century levels. Information available from case studies of the Belgian Congo (Hochschild 1998) and British India (Ruthven 1978:183-217; Arnold 1985:81; Chattopadhyay 2000:89-92) suggests that torture may have been commonly practiced by colonial governments. Even so, torture seems to have increased in the twentieth century, with the rise of nationalist and communist independence movements and the increasingly brutal methods that the colonial powers used to suppress them. In French Indochina (Dommen 2001; Fourniau 2002) and British Kenya (Anderson 2005; Elkins 2005), for example, the colonial powers only had a minimal presence on the ground during the nineteenth century, ruling primarily through local puppet governments and officials. While the European powers and their proxies could rule harshly in these countries, they lacked the manpower to do much harm in the form of torture. During the twentieth century, the rise of the Mau-Mau rebellion and nationalist political agitation in Kenya, and the rise of nationalist and communist independence movements in Vietnam,

caused England and France to tighten control over the two colonies, with an increase in torture as a result.

Only in the democratic countries of Western Europe, North America, and Australia was torture uncommon in the twentieth century, but even in these countries torture did occur. In the late nineteenth and early twentieth century, police in the United States commonly used beatings and other forms of torture to obtain confessions from criminal suspects, particularly when those suspects were blacks, immigrants, or whites of a low social class. Democratic countries have also used torture against prisoners of war and other non-citizens. The French used torture in Algeria (Maran 1989; Talbott 1980; Vidal-Naquet 1963), the Israelis have used torture against Palestinians (Felner 2005; Ron 1997), the British have used torture in Northern Ireland (Conroy 2000), and the United States and Great Britain have used torture against Iraqis and other prisoners in the global war on terror (Danner 2004; Greenberg and Dratel 2005).

#### Explaining Twentieth Century Torture:

Upon first examination, the practice of torture during the twentieth century seems significantly different from the practice of torture in earlier periods. In earlier periods torture was a formal legal procedure, ordered by judges, subject to regulation, and conducted in the open. During the twentieth century, torture was been conducted outside of formal legal practice, by government security agents, without regulation, and in secret. These differences are so great that it may seem that the two phenomena are unrelated. However, the same general patterns that governed torture in previous eras – torture of non-citizens, citizens suspected of severe crimes, and torture in circumstances of severe

threat – apply in the twentieth century as in earlier centuries. The rise of human rights norms has had a significant impact on the prevalence of torture, but it has been primarily in liberal democracies that these norms have taken hold. Even in liberal democracies, unfortunately, the norms against torture can be violated in cases of torture against non-citizens under conditions of extreme threat.

While liberal democratic governments do use torture in some situations (Rejali 2006), the rise of liberal democracy has helped reduce the prevalence of torture. As the governments of Western Europe became democratic in the twentieth century, the practice of torture both of criminals and of political opponents nearly ceased. Both in the West and in the developing world, democratic countries are much less likely to use torture than non-democratic countries, and this is true even when other relevant factors, such as the level of economic development, are controlled for (Cingranelli and Richards 1999; Henderson 1991; Howard and Donnelly 1986; Poe and Tate 1994; Poe, Tate, and Keith 1999). Police torture of criminal suspects still occurs in Western democracies, but an extensive system of legal safeguards has helped make the torture of criminals very rare in present-day liberal democratic states (Evans and Morgan 1998).<sup>3</sup>

Despite the decline of torture in liberal democracies, torture remains common elsewhere in the world. The practice of torture in the twentieth century and today follows the same general patterns as at other points in history. Torture is most commonly used against people who are not full members of a society, such as slaves, foreigners, prisoners of war, and members of racial, ethnic, and religious outsider groups. Torture is used more rarely against members or citizens of a society, and is only used in cases of extremely serious crimes, particularly treason. Torture is more commonly used in cases where there

is a perception of an extreme threat; and liberal democracies are less likely than other forms of government to use torture, particularly against their own citizens.

When these general patterns or laws are applied to the specific events of the twentieth century, one can see three main reasons for the increase or continuation of torture in contemporary times:

1. Changes in the quantity, intensity, and nature of military conduct have led to an increase of torture of prisoners of war and the civilian populations of occupied territories.

2. The prevalence of civil conflicts in states divided along racial, ethnic, and religious lines may explain some of the incidence of torture in the twentieth century.

3. Changes in the nature of the sovereign have brought about an expanded definition of treason, and states have also become more effective at monitoring and prosecuting treason.

#### 1. Changes in the quantity, intensity, and nature of military conflict:

The first reason for the persistence of torture during the twentieth century, and its increase, at least in Europe, over the nineteenth century, is the increase in the number and severity of international conflicts. The first half of the twentieth century saw two world wars, which involved an unprecedented number of states and peoples, a high level of mobilization of population, long-term occupation of enemy populations, and nationalist and ideological motivations to treat prisoners and occupied populations inhumanely. In the second half of the twentieth century, open warfare ceased in Europe, but increased in the newly-independent states of the former European colonies in the Middle East, Africa,

and Asia. An estimated 20 million people died in the first World War and an estimated 50 million in the second, and over 50 million individuals are estimated to have died in the many smaller wars that occurred after 1945 (Keegan 1994:50, 56; Parker 2005:421).

Even accounting for increases in population, the number of people involved in war and the number of civilians and soldiers killed in warfare increased dramatically in the twentieth century, compared to nineteenth century levels, possibly making the twentieth century the most violent century in the history of the world. As Keegan (1994:50-60) and Beckett (1988) argue, the process of total mobilization of resources and population for war that began in the Napoleonic Wars in Europe and the Civil War in the United States bore terrible fruit in the twentieth century. When total war tactics were combined with ideological and nationalist disrespect for conventional limitations on war, massacre, violence against civilians, and torture of enemy civilians and prisoners of war occurred at unprecedented levels.

Torture against prisoners of war was widely practiced in many wars, including the Chinese and Korean armies against allied soldiers during the Korean War (Barker 1974:169-171; Chimnery 2000), the Vietnamese against American soldiers (Howes 1993; Rochester and Kiley 1998), and by the Japanese in World War Two against Allied prisoners (Dower 1986:48-52). Even democratic countries, who rarely use torture against their own populations, have tortured prisoners of war, particularly when those prisoners are from a different racial or ethnic group. Examples include the United States in Vietnam (Citizens Commission of Inquiry 1972; Frey-Wouters and Laufer 1986; Herbert 1973; Vietnam Veterans Against the War 1972), France in Algeria (Maran 1989; Talbott 1980; Vidal-Naquet 1963), and England in Kenya (Anderson 2005; Elkins 2005).

Democratic countries also engage in torture when terrorist attacks on civilians cause governments to perceive a severe threat. Examples include Israel's treatment of Palestinian prisoners (Felner 2005; Ron 1997), the United States' treatment of suspected terrorists captured in Afghanistan (Danner 2004; Greenberg and Dratel 2005), and England's treatment of suspected members of the Irish Republican Army (Conroy 2000).<sup>4</sup>

Torture of prisoners of war, instead of other abuses such as massacre or confinement in dangerously substandard conditions, occur most often in counterinsurgency wars. In conventional wars, common soldiers possess little information that might be of use to the opposing side, so prisoners of war are generally not extensively interrogated, and for this reason are rarely tortured. In counterinsurgency conflicts, however, common soldiers do possess valuable information – the identity and location of other insurgents – and are often tortured for this information. The difference between the United States' treatment of Japanese and Vietnamese prisoners of war is an instructive example. In both cases, racial hatreds led American soldiers to mistreat enemy soldiers, but the nature of this mistreatment varied. In Vietnam, U.S. soldiers tortured prisoners of war, or turned them over to South Vietnamese authorities for torture (Citizens Commission of Inquiry 1972; Frey-Wouters and Laufer 1986; Herbert 1973; Vietnam Veterans Against the War 1972). In World War Two, U.S. soldiers simply massacred Japanese soldiers who attempted to surrender (Dower 1986).

A final reason why twentieth century conflicts have caused an increase in the use of torture is that torture has been used as a way of inflicting terror and imposing control upon the civilian populations of occupied territories. As Liberman (1996) argues in his comparative study of twentieth-century military occupations, industrialization made it

possible for conquerors such as Germany, the Soviet Union, and Japan to profit in the long term from the economies of conquered nations, beyond the benefits of short-term looting. However, the rise of nationalist resistance to foreign rule made it possible to profit from occupation only when violent coercion was used against conquered peoples. During World War Two, the German (Delarue 1964; Johnson 1999), Soviet (Cortois et al. 1999; Liberman 1996), and Japanese (Dower 1986) governments used torture, along with mass killings, reprisal killings, and other terror tactics, to ensure secure and profitable control of conquered territories.

## 2. Racial, ethnic, and religious civil conflicts:

The years following World War Two saw the creation of a number of newly independent states, many of which had weak governments attempting to maintain control of a racially, ethnically, or religiously diverse population. Diversity does not by itself seem to cause an increase in human rights violations (Walker and Poe 2002), but may increase the level of violence inherent in civil conflicts. The rise of nationalism as a justification for state-building may place ethnic minorities in a more precarious place in the contemporary world than they occupied in the monarchies, sultanates and empires of the past.

Anecdotal evidence supports both possibilities. Racial, ethnic, and religious divisions have been intrinsic to many violent civil conflicts in the twentieth century but torture, massacre, and other violations of human rights have also occurred in countries with largely homogenous populations.<sup>5</sup> Accordingly, the theory that ethnic diversity

causes more torture in civil conflicts is advanced here as a hypothesis only, to be tested in future empirical studies.

### 3. Expansion in the definition of treason, and the capacity of states to prosecute treason:

While the twentieth century saw a large amount of torture committed against foreign prisoners of war the category of crimes of treason, and of the number of people capable of committing treason. In pre-modern governments, where the sovereign was a single person or a small group of rulers, treason consisted of plotting against the personal safety or authority of this person or group. Only a small number of noblemen, military officials, and members of the royal family were even capable of committing treason. In modern nation states, the sovereign is defined as the government, the people or the revolution, a much larger category. In democratic countries, dissent is not always viewed as treason, and many peaceful means exist for the expression of dissent and the change of government policies. In states that modernized without becoming democratic, torture was much more likely to occur than in a traditional state, since the number of people capable of opposing the government in a meaningful way increased, without a corresponding increase in non-treasonous avenues of effecting political change (Peters 1996:116-132). In addition, the rise of the nation-state as the dominant system of political organization meant that governments had much more power over citizens and were much more in contact with their citizens' lives. The prevalence of torture in the twentieth century may in part represent a replacement of violence by non-state actors, such as clan leaders, village chiefs, and local warlords, with violence by governments, not an increase in violence overall.



The type of twentieth century society where torture is most common is a totalitarian one, whether the society is fascist or communist. In a totalitarian society, there is no sphere separate from the state. Virtually any activity – composing the wrong kind of music, pursuing the wrong kind of scientific research, or failing to meet a work quota – might be seen as treasonous. The expansion of the definition of treason caused a related expansion in the number of people capable of committing treason. When the sovereign was a person, only those people closely connected with him could betray him, and accusations of treason were essentially limited to the nobility. When the sovereign became defined as the state or the revolution, every citizen was capable of harming the sovereign, and thus any citizen was capable of treason. Totalitarian states also operate extensive networks of spies and informers, making it much more likely that a citizen who defies or criticizes the government will be reported and punished.

The expansion of the definition of treason and the expansion of networks to locate and punish traitors has occurred in many countries, including regimes that are not fully “totalitarian.” Many non-democratic states under real or perceived threat from opposition groups have used torture against suspected opponents. In these states, not only armed opposition to the government is seen as treason, but also non-violent activities such as organizing in favor of human rights, participating in labor unions and professional organizations, community organizing, and peaceful political protest. The authorities of repressive governments tend to interpret any opposition activity as treasonous, and respond accordingly. The torture of persons who engaged in non-violent political activities, or were merely suspected of doing so, occurred in many countries besides fascist and communist ones, including Argentina (Feitlowitz 1998; Guest 1990), Brazil

(Archdiocese of São Paulo 1986; Huggins 2002; Huggins et al. 2002), El Salvador (Gomez 2003), Iran (Abrahamian 1999; Rejali 1994), Iraq (Makiya 1993), and many others.

While accurate estimates of the number of people tortured on suspicion of treason do not exist, evidence from several cases from different historical periods can illustrate the extent of the change in numbers over time. The Roman historian Tacitus (*Annals* xi:22, xv:16, 20) describes two cases of treason in which torture was used on the conspirators. In the first, a Roman knight was found wearing a sword in the presence of Emperor Claudius. Under torture, the knight confessed that he had planned to assassinate the emperor, but did not name any accomplices, and no other individuals were tortured. In the second instance, a number of Roman nobles conspired to assassinate Emperor Nero, but the plot was given away by a servant. Tacitus mentions twenty conspirators by name, of whom only two were tortured; some others confessed and named accomplices without being tortured in the hopes of receiving clemency, and the plot was fully discovered. While Tacitus recounts these incidents as examples of the emperors' cruelty, the numbers of individuals tortured are tiny by modern standards – only a handful of people, all of whom were suspected of being directly involved in the plot against the Emperor himself.

During what Langbein calls England's "century of torture," 1540-1640 (Langbein 1977:71-140; Heath 1982:59-166), English authorities used torture in response to suspected plots of treason, many of which involved Catholic opposition to the Protestant monarchs Henry VIII and Elizabeth I. Despite the high level of political and religious

strife in English society during this period, there were fewer than one hundred cases of torture, by Langbein's count, during the entire century.

When we turn to the twentieth century, the number of people tortured under suspicion of treason increases greatly. Nearly 700,000 Communist Party members were tortured and killed during the "Great Purge" of 1938-9 in the Soviet Union, in addition to the millions of class enemies and ethnic minorities who were murdered, imprisoned, deported, or deliberately killed through starvation during the first three decades of Soviet rule (Courtois et al. 1999:9-10). A documented number of more than 20,000 people were tortured and killed in Cambodia's central prison, in addition to the uncounted millions who were tortured and killed elsewhere in the country. The victims' crimes of treason included possessing a secondary or college level education (thereby putting them in the bourgeois class), failure to meet work quotas, being named by other torture victims as members of a conspiracy, and membership in the "Kampuchean Worker's Party," an opposition party that existed only in the paranoid imaginations of the Khmer Rouge political leadership. Victims of torture even included former guards and torturers at the prison, who were labeled traitors for failing to obtain enough information from prisoners (Chandler 1999).

Of course, the records from ancient Rome and Tudor England are incomplete, and the number of unrecorded instances of torture may exceed the number of recorded ones. There is also a great difference in population between these countries and twentieth century Cambodia and the Soviet Union. Even taking these factors into account, however, a real increase in the number of people tortured under suspicion of treason is evident. The expansion of the definition of torture brought by new definitions of

sovereignty, and the expansion in states' ability to monitor and prosecute suspected traitors, resulted in a huge increase in the number of individuals tortured for suspicion of treason in the twentieth century.

## VII. Conclusion:

This paper presented several hypotheses about the patterns by which torture is practiced in societies across cultures and historical time periods. Throughout human history, torture has been most frequently employed against people who are not full members or citizens of a society, such as slaves, foreigners, prisoners of war, and members of racial, ethnic, and religious outsider groups. Torture has been used only rarely against full members of a society or citizens. In these cases, torture is used only after other evidence indicates probable guilt, and in the cases of extremely serious crimes, such as heresy and treason.

Torture was illegal in principle and rare in practice in nineteenth century Europe, Latin America, and the United States, but increased greatly in Europe and Latin America during the twentieth century. Accurate and complete data on the prevalence of torture elsewhere in the nineteenth century world is not available, but it seems that torture was either as common or more common in the twentieth century than it was in the nineteenth.

The increase of torture in Europe, and the increase or continuation of torture elsewhere in the world, can be explained by reference to the same rules that describe the prevalence of torture in previous eras. An increase in the number and intensity of wars, and changes in the character of modern warfare, caused an increase in the torture of prisoners of war and the torture of civilian populations in occupied areas. The increase in

the number of ethnically and religiously diverse states may also explain part of the prevalence of torture, particularly when these heterogeneous states are the sites of civil conflict. A change in the nature of sovereignty and an increase in state monitoring of subjects has caused a tremendous increase in the number of citizens tortured on suspicion of treason. Together, these factors offset the decrease in torture that came about due to the growth of democracy, resulting in a twentieth century in which torture was as common or more so than the nineteenth.

While it is unfortunate that torture has become so prevalent in contemporary times, understanding historical patterns can give us some hope for the future. Under the right conditions, the practice of torture decreases, and has nearly disappeared from the experience of citizens of liberal democratic societies. As other countries adopt liberal democratic forms of government, there is strong reason to believe that torture will be eradicated there as well. If international wars and civil conflicts become less common, the torture of prisoners of war and conquered non-citizen subjects will become less common as well. There is strong evidence that the frequency of war has declined greatly since the end of the Cold War, giving hope that the future may contain both less conflict and less torture (Human Security Centre 2005). Even in times of war, democratic countries can prevent or discourage the torture of prisoners of war by adopting monitoring mechanisms to ensure the proper treatment of prisoners in custody.

While the patterns in the practice of torture defined here are very general, more specific research along these lines could provide useful guidelines to advocates interested in putting an end to torture. In the past, human rights advocates have concentrated on promulgating treaties that proscribe human rights violations, including torture. These

efforts have had some effect in establishing international norms and regimes prohibiting torture, but the establishment of norms and regimes has not been enough to stop torture in actual practice. Knowledge of the patterns described here could help advocates focus their efforts. For example, since torture often occurs in situations of conflict, advocacy efforts aimed at the peaceful resolution of conflicts may be just as successful in preventing torture as advocacy efforts aimed specifically at torture. Since torture of citizens is rare in liberal democracies, programs that help develop democracy and civil society may assist in preventing torture as well.

Encouraging liberal democracy will not in itself completely prevent torture, as liberal democracies do sometimes engage in torture when under threat of war or terrorist attack. In these cases, advocates should focus their efforts on making sure that legal and procedural safeguards exist, and that these safeguards are not evaded by governments. One such international watchdog institution, the European Committee for the Prevention of Torture, has had some success in Europe (Evans and Morgan 1998). In the United States, the media, human rights organizations, and bipartisan action in Congress may have succeeded in limiting torture by bringing about the passage of legislation applying Geneva Convention restrictions on the torture of enemy combatants to prisoners taken in the war on terrorism (Sidoti 2005). While it is not clear whether the Bush administration will abide by this legislation (Editors of the Washington Post 2006), the passage of the law does represent progress.

The patterns described in this essay are very general, and are therefore only of limited use in helping human rights advocates direct their efforts. Future research should undertake more detailed and specific examinations of the practice of torture in

contemporary societies, to learn how these general factors apply in specific cases. There are several good examples of this kind of research (Abrahamian 1999; Chandler 1999; Gomez 2003; Rejali 1994, 2006), but there is still much work to be done. It is hoped that this historical analysis will provide perspective and guidance to other researchers. By understanding torture, we may be able to prevent it; by studying what led us to Abu Ghraib, we may be able to avoid returning there.

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## Notes:

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<sup>1</sup> Comprehensive histories include Langbein (1977), Peters (1996), and Ruthven (1978). Pre-twentieth century case studies include Abrahamian (1999), Arnold (1985), Chattopadhyay (2000), De Ste. Croix (1999), DuBois (1991), Foucault (1997), Garnsey (1970), Hanson (1991), Heath (1982), Rejali (1994), and Silverman (2001). While exact statistics are not available, there is fairly good documentation of torture conducted in the twentieth century. For torture in the first half of the century, the passage of time and the change or defeat of regimes has made it possible for researchers to gain access to government records on torture by fascist and communist governments (Courtois et al. 1999; DeLarue 1964; Johnson 1999) and by democratic governments fighting anti-colonial insurgencies (Anderson 2005; Elkins 2005; Maran 1989; Talbott 1980). Since the 1970's, Amnesty International, Human Rights Watch, and Freedom House, and the U.S. State Department have been systematically collecting information on human rights abuses throughout the world, and publishing this information in a wide variety of books, papers, and reports.

<sup>2</sup> While this paper is not an example of "pure sociology," it is indebted to the methodological approach used by Donald Black (1976, 1993), in that it searches for general patterns across a wide range of cultures and historical time periods, to propose a set of testable hypotheses about when and where a particular social practice is expected to occur.

<sup>3</sup> In India, torture both of suspected criminals and suspected political opponents does still occur (Amnesty International 1992, 2001, 2003), but India is a young democracy, and it can be hoped that the use of torture will decline there over time, as it has in the United States.

<sup>4</sup> While the United States did not, as a rule, torture Japanese prisoners of war in World War Two, this does not represent humanitarian treatment, but the fact that Japanese soldiers rarely surrendered, and when they did attempt to do so, they were nearly always massacred by American soldiers (Dower 1986:52-7).

<sup>5</sup> For example, Argentina (Feitlowitz 1998; Guest 1990; Lewis 2002); El Salvador (Gomez 2003), China (Courtois et al. 1999; Seymour and Anderson 1998; Wu et al. 1988), and Cambodia (Chandler 1999). The latter two states do contain ethnic minorities, and these minorities did suffer a disproportionate level of abuse and violence during these countries' civil conflicts, but the majority of violence and torture occurred between members of the same religious, ethnic, and racial groups.