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BAD APPLES DON'T FALL FAR FROM THE TREE: THE ROOTS OF TORTURE IN U.S. IDEOLOGY

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Abstract

This paper seeks to explain the extraordinary persistence of torture as an element of U.S. foreign policy. The strong international consensus against the use of torture and the apparent commitment of the U.S. to the rule of law and human rights not only make this a perplexing contradiction, but also a vital case study in the discrepancy between rhetoric and practice in foreign policy. This paper undertakes a socio-historical analysis of U.S. history, analyzing the character and causes of torture. Evidence includes the domestic torture of Native and African Americans, torture abroad in the Philippines, Japan and the institutionalization of torture in the Cold War and the War on Terror. This thesis finds that the U.S., when presented with an existential threat or enemy, often chooses to torture, a choice that is underpinned and justified by ideologies embedded deeply in U.S. political culture. In particular, American nationalism, Jacksonianism and racial superiority are imperative in the rhetoric and actions of those who commit, sanction, justify torture. These ideologies help explain the contradictory continuation of torture, may inform the broader study of U.S. foreign policy and show the roots of torture, past and present, in the political culture of the U.S.

Introduction

Upon the revelation of torture at Abu Ghraib in 2004, Deputy Secretary of Defense Paul Wolfowitz attributed torture to "a few bad apples," who engaged in practices that were "absolutely not the norm for American men and women in uniform."[1] Secretary of State Donald Rumsfeld later defended these statements who referred to torture at Abu Ghraib as "an exceptional, isolated case" and President George W Bush who spoke of "disgraceful conduct by a few American troops who dishonored our country."[2] These statements proved to be, at best, highly inaccurate and, at worst, highly deceptive.

The release of a report by the Senate Select Committee on Intelligence, dubbed the "C.I.A Torture Report" in December 2014 brought this into sharp focus, and raised many questions about the hidden truth of U.S. torture.[3] Headlines around the world following the report included "Amerikas Schande" (America's Shame), "A truly black day for the civilized West," "The unholy methods of the CIA" and "U.S. uncovers the dirty war of the Bush Era" (from Austria's '*Kleine Zeitung'*, the UK's

[1] U.S. Department of Defense. *News Transcript: Deputy Secretary Wolfowitz Interview on the Pentagon Channel*. May 4th, 2004. Online. http://archive.defense.gov/Transcripts/Transcript.aspx?TranscriptID=2970

[2] Human Rights Watch. *The Road to Abu Ghraib*. June 8th 2004. Online. https://www.hrw.org/report/2004/06/08/road-abu-ghraib. U.S. Department of Defense. "*DOD News: Bush Outlines 5 Steps Forward in Iraq, by Kathleen T. Rhem, American Forces Press Service."* Online. http://archive.defense.gov/news/newsarticle.aspx?id=26418

[3] Ahkenas, Jeremy, Fairfield, Hannah, Keller, Josh and Paul, Volpe. "7 Key Points From the C.I.A. Torture Report." *The New York Times*. December 9th, 2014. Online. http://www.nytimes.com/interactive/2014/12/09/world/cia-torture-report-key-points.html

'*Daily Mail*,' Colombia's '*El Tiempo'* and Spain's '*El Pais'* respectively).[4] These bold headlines allude to a problem beyond the individuals, or "bad apples" involved or even the Central Intelligence Agency (CIA) asking questions of U.S. foreign policy and the administration at large. The report also kindled debate and renewed criticism from many in politics and academia, making it an important time to study the true nature of the history and character of torture in U.S. foreign policy.

This thesis draws on two fundamental assertions from the existing literature on torture. The first is that torture is indeed a common part of U.S. interrogation policy, a fact that needs little further evidence given the twentieth century exposé of CIA torture in the "War on Terror." The second is that torture in U.S. foreign policy is a matter of historical continuity. Historians have studied the modern history of torture in U.S. foreign policy or involving the U.S. abroad, arguing that a paradigm of physical and psychological brutality evolved out of the Cold War.[5] This paradigm, they argue, was then propagated and reflected in programs and training across the globe, including Vietnam, the Philippines, Latin America and, in the twentieth century, the Middle East in the "War on Terror."

A great deal of the literature tells the story of American torture overseas throughout history, consequentially amplifying the need to understand not just the

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[4] Glum, Julia. *International Newspapers React To CIA Torture Report: Media Responses Range From Anger To Apathy*. International Business Times. December 10th 2014. Online. http://www.ibtimes.com/international-newspapers-react-cia-torture-report-media-responses-range-anger-apathy-1747201

[5] As will be made clear throughout, U.S.. involvement in torture has ranged from individual instances and indirect training programs to widely implemented and supported policies or orders.. McCoy, Alfred W. *A Question of Torture: CIA interrogation, from the Cold War to the War on Terror*. New York: Metropolitan Books/Henry Holt and Co. 2006. 22. and Otterman, Michael. *American Torture: from the Cold War to Abu Ghraib and beyond*. London: Pluto Press. 2007.

detail, but also the sources of this policy and its prevalence in the twenty-first century. The primary argument of this thesis is that the existence and persistence of torture in U.S. foreign policy is underpinned by similarly persistent elements of ideology and political culture; this cultural content thus explains the use of torture against perceived enemies and threats throughout U.S. history. As such, this thesis will study torture throughout U.S. history with a view to understanding the character of its use and justification. The purpose of this essay is to uncover and tie together literature and evidence on the historical, political and cultural background of torture and to analyze its relationship to the U.S. use of torture in the twenty-first century.

Significance

There are three primary reasons why this is an important and timely topic to study. Firstly, the U.S. use of torture throughout history, but perhaps even more so in the twenty-first century, presents an undeniable contradiction. "American democracy," Anthony Lewis explains, "is an experiment in government based not on fear, but on freedom."[6] How is it then, that in times of war, instability or fear, the U.S. has so often resorted to the extrajudicial measure of torture? This is not only a question of political culture, but also a question of the place of law, both domestic and international, in the foreign policy of the U.S. Not only is torture outlawed in the statutory law of the U.S., but it is also prohibited by international laws that are ratified by, and were even championed by, the U.S. – such as the Geneva Convention, the

[6] Lewis, Anthony. "Fear, Terrorism and the Constitution." *Public Administration Review*. Vol. 62. Issue 4. (July 2002). 61.

United Nations Declaration of Human Rights and the Convention Against Torture. Consequently, the use of torture in U.S. foreign policy presents a flagrant moral and legal contradiction.

Secondly, studying occurrences of torture, their contexts, justifications and character, is also important for scholars, activists or legislators who seek to prohibit its use. Although international agreements are designed to prohibit torture altogether, there is debate whether international agreements such as the Convention Against Torture have yielded any reduction in the practice of torture, and it is also clear that domestic law in the U.S. has not ended to use of torture.[7] The contradiction presented by the use of torture is also normative, seemingly negating the fundamental political and ideological principles of the U.S., as well as international norms. One must conclude, therefore, that the current international and domestic political and legal situation is not sufficient to prevent the use of torture. This enquiry, therefore, will bear in mind what flaws in the legal, political or normative environment may be exposed by the continued occurrence of torture.

Finally, this area of study might affect our understanding of U.S. foreign policy in general and may challenge assumptions about its character at large. Because of its unique character and continuation, "the development and propagation of a distinctive American form of torture will, in some way, implicate almost all of our society."[8] This thesis, therefore, will explore the characteristics of U.S. politics, foreign policy and society that excuse, justify or lead to the use of torture, in order to

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[7] Gilligan, M, J and Nesbitt, N, H. "Do Norms Reduce Torture." *The Journal of Legal Studies*. Vol.38(2) 2009. 447

[8] McCoy, *A Question of Torture*. 2007. 2.

complement the exposés and historical studies of scholars such as Alfred McCoy. These characteristics, in turn, may relate to other areas of U.S. foreign policy as well as torture. In particular, this thesis will study the character of U.S. foreign policy in times of crisis, where the use of torture has been most likely, and where foreign policy, as well as domestic politics, has been at its most volatile.

Research Question & Argument

The literatures on torture in U.S. history and on the nature of U.S. foreign policy at large very rarely meet. Consequently, this thesis explores the roots of torture in foreign policy. It hypothesizes that there are persistent traits in the occurrences of torture throughout U.S. history, which can inform us both about the reasons for torture's persistence as well as the character of U.S. foreign policy at large. Accordingly, torture in U.S. foreign policy is far more than the work of just "a few bad apples." The roots of torture are twofold. Firstly, torture has societal roots that extend far beyond those who enact or sanction it. Instead, the ideological basis for U.S. torture permeates the actions and tendencies of U.S. government, as well as the society that supports, excuses or overlooks these illegal and reprehensible acts. Secondly, torture has historical roots in the U.S. that were evident long before its adoption as official, or unofficial, foreign policy. Torture has been evident in the political culture of the U.S. from the nation's very founding. This thesis, therefore, argues that there are persistent traits of U.S. foreign policy that explain the continuation and persistence of torture in the U.S., even in the presence of blatant legal and moral contradictions.

Torture, of course, is not a uniquely American phenomenon. A cursory survey of torture's global history torture will reveal its use in ancient Greece, in the Roman justice system and in the more modern histories of European nations including France, Great Britain, Spain and The Netherlands. These nations, to name just a few, have engaged in torture both domestically and overseas.[9] Moreover, Amnesty International reports that between 2014 and 2015, 122 nations tortured or "otherwise ill-treated" people.[10] In these instances torture has been often been propagated by the specific contexts and ideologies of these other nations. In some cases, such as in the British and Spanish empires, the use and justification of torture could also be said to have inspired and led the way for the U.S. use of torture overseas.

What is distinctive, however, about U.S. torture is the extent of its use and continuation into the twenty-first century. Moreover, the U.S.' use of torture in contemporary foreign policy is seemingly unrivalled amongst democratic nations, a concern made more prominent by the supposed leadership of the U.S. on issues such as human rights. These details amplify the aforementioned legal and moral contradictions, and make inquiry about the driving forces behind the persistent use, justification and reappearance of U.S. torture all the more important. This thesis does not, therefore, argue that the U.S. is the only state that uses or justifies torture, nor that the extent of its torture is greater than any other state. Instead, it argues that the U.S. use of torture is a remarkable and important contradiction that is explained by a specific set of ideologies that are in many ways unique to the U.S.

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[9] Wisnewski, Jeremy J. *Understanding Torture*. 2010. Edinburgh: Edinburgh University Press

[10] Of course, not all "ill-treatment" is torture. The details of the report do document a number of natins who overtly engaged in torture. Amnesty International. *Annual Report 2015/16*. 2016. Online. https://www.amnesty.org/en/latest/research/2016/02/annual-report-201516/

Despite the assertion throughout the thesis that ideology and political culture have a causal influence on the use and propagation of torture, they are not the proximal or immediate cause of torture in any of the historical episodes and examples used throughout the argument. To suggest this would be to assert that the U.S. has some tendency or desire to torture for torture's sake. Instead, this thesis proposes that political culture in the U.S. means that torture is a permissible, persistent and forgivable policy or action, because of the presence of equally persistent ideologies. The proximal cause of torture, in most cases, is the presence of an existential threat or enemy and the need for information or retribution; these variables are, of course, also of crucial causal significance in the use of torture. This also helps explain the episodic nature of U.S. torture, which occurs specifically in reaction to the presence or action of a perceived aggressor, threat or enemy. An existential threat, however, is not sufficient alone in explaining torture, which can occur or not occur according to the policy or choice of individuals, leaders and, ultimately, societies. The historical and ideological roots of torture in U.S. political culture, this paper argues, facilitate the continued choice of the U.S. to torture in the twenty-first century, despite overwhelming moral and legal contradictions.

Organization & Structure

Chapter one will cover torture in the history of U.S. political culture from its founding to the end of the nineteenth century, chapter two will discuss torture in U.S. foreign policy in the twentieth century, finally, chapter three will examine the contemporary U.S. use of torture in the twenty-first century and the "War on Terror."

The first chapter will focus on torture in U.S. domestic history and political culture, arguing that the ideologies and norms that have facilitated torture in foreign policy for over a century have been evident in instances of torture and in the politics of the U.S. throughout the history of the nation. Moreover, these ideologies were crucial in, and fostered by, the unique creation and evolution of the U.S. itself. This chapter will include sources from the very establishment and expansion of the country, demonstrating the foundations for exceptional and extrajudicial domestic and foreign policy such as torture. Evidence in this chapter will include sources detailing torture under the leadership of Thomas Jefferson during the removal of the Indians and in the nineteenth-century treatment of African Americans. Although these domestic incidents are not evident or common in more contemporary times, this thesis will argue that their normative foundations persist. The "economy of suspended rights" and "the frailty of civilized sensibilities in situations where dominant groups feel threatened and insecure," as identified in the nineteenth century, continue to be relevant in instances of torture later in U.S. history and even today.[11] Moreover, the use of torture in the early domestic history of the U.S. foreshadows the use of torture in the foreign relations of the U.S.

Chapter two of this thesis will show how torture in U.S. political culture extended into its foreign relations, as the U.S. began to assert itself globally. The thesis will focus on three historical episodes of U.S torture in its foreign relations and foreign policy: the "age of imperialism" in the late nineteenth and early twentieth

[11] *Torture in Texas: Aurora Daily Express*. February 2nd, 1893. Online. https://news.google.com/newspapers?id=1aIoAAAAIBAJ&sjid=CQYGAAAAIBAJ&pg=2000,6157751&dq=paris+texas&hl=en

century, the use of torture against the Japanese in World War Two and, crucially, the development of torture as policy in the Cold War. Specific examples from the Philippines, Japan, Vietnam and South and Central America, as well as key domestic sources and documents, will reveal the context and character of torture. Each case reveals continuity in the justification of torture based on fear, and dehumanization, of the other or the enemy. Moreover, in the "War on Terror" there are clear links between the methods and organization of torture in the Cold War and in CIA locations around the world post-9/11, another historical continuity that will be considered.

Chapter three will present the continuation of these ideologies and arguments in relation to U.S. foreign policy and torture in the twenty-first century, specifically in the "War on Terror." This thesis will present some of the key evidence of torture and revelations of torture in the "War on Terror," now an undeniable element of U.S foreign policy and conduct, as exposed by the aforementioned "CIA torture report." These sources, as well as the literature and analysis that have followed, demonstrate the exceptional and extrajudicial climate in which torture was sanctioned, authorized and pardoned. Not only, this chapter will argue, does the present-day use of torture represent a continuity with the historical and societal roots that have been presented throughout the thesis, but it also presents a number of challenges to our interpretation of the character of U.S. foreign policy and its political, legal and international context. The sources and arguments in this thesis not only demonstrate and help to explain the persistence of torture over centuries of U.S. history and foreign policy, but also show the potential character of U.S. foreign policy and the limits of domestic law and international law in this context. While a full exploration of these topics is far beyond

the bounds of this thesis, it is clear that the use of torture in the twenty-first century must be considered when assessing the potential character and scope of U.S. foreign policy, past, present an future.

Literature Review

Briefly surveying some of the major works relating to torture and its place within U.S foreign relations helps one understand not only some of the central debates regarding torture but also the ideological influences on U.S foreign policy. These influences, with the exception of racial superiority, are scarcely applied to torture. Historians such as Alfred McCoy and Michael Otterman have revealed the recent history of torture from an American perspective, arguing that a paradigm of physical and psychological brutality evolved out of the Cold War and the fear of Soviet "mind control."[12] This paradigm, they argue, was then propagated and reflected in programs and training across the globe, including Vietnam, the Philippines, Latin America and, more recently, the Middle East in the "War on Terror." Broader accounts of torture, that is to say by actors other than America and before the twentieth century, are scarcer but include Ruxandra Cesereanu and Robert Edgerton's *The Worldwide Practice of Torture*.[13] A great deal of the literature, however, tells the story of American torture overseas, consequentially amplifying the need to understand not just the detail but also the sources of this policy.

[12] McCoy, *A Question of Torture*. 22

[13] Ruxandra Cesereanu, "An Overview of Political Torture in the Twentieth Century." *Journal for the Study of Religions and Ideologies*. Vol.5(14) 120-143 (2010) Depicts the "reintroduction" of torture and its modern form. Edgerton, Robert B. *The Worldwide Practice of Torture: A Preliminary Report*. London: Em Text. 2007. Presents a global survey of methods and instances of torture.

This thesis will take a much broader scope than much of the existing literature. As such it will draw upon cases from the aforementioned chronological accounts as well as case studies such as *A Phoenix Rising*, *White Love* and *Fighting Cosmic Warriors* that detail the political situation and local perspective of torture in Vietnam, the Philippines and the Middle East respectively.[14] While there is clear historiographical merit in observing certain instances or historical episodes, this research sets out to depict torture in American society and foreign policy. It will cover episodes of torture as far back as America's very inception, the struggles with Native Americans, and instances of public torture such as lynching in the nineteenth century. In doing so, it is hoped that ideological links can be drawn between these social events and the global abuses detailed in works such as those by McCoy and Otterman.

This thesis will also connect the torture debate in America with torture's historical and ideological roots. Scholars thus far have approached this debate from a range of perspectives. David Forsythe explores the key political debates in *The Politics of Prisoner Abuse* whereas many have taken moral, legal and even philosophical analysis to both the policy of torture itself and its relationship with legislation and government.[15] These works are often critical and dismissive of the use of torture, providing consistent themes including utilitarian analysis of torture,

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[14] Schramm-Evans, Zoe. *A Phoenix Rising: Impressions of Vietnam*. London: Pandora. 1996. Rafael, Vincente L. *White love and other events in Filipino history*. Durham: Duke University Press. 2000 ; Gregg, Heather S. "Fighting Cosmic Warriors: Lessons from the First Seven Years of the Global 'War on Terror.' *Studies in Conflict & Terrorism*. 32:3 (2009): 188-208.

[15] Forsythe argues that torture is a stain on democracy itself. Forsythe, David P. *The Politics of Prisoner Abuse: the United States and enemy prisoners after 9/11*. Cambridge; New York: Cambridge University Press. 2001. Legal and utilitarian explorations include: Raviv, Adam. "Torture and Justification: Defending the Indefensible." *George Mason Law Review*. 13:1 (Fall 2004): 135-181; and Twiss, Sumner – "Torture, Justification, and Human Rights: Toward an Absolute Prescription." *Human Rights Quarterly*. 29:2 (2007): 346-367

dismissal of Alan Dershowitz's "ticking time bomb" scenario and the assertion that torture is not only harmful to its victims, but also a secretive and corrupt abuse of democracy at large. Claudia Card's *Confronting Evils* and James Dempsey and David Coles *Terrorism and the Constitution* offer absorbing arguments to these ends.[16] Less critical accounts, however, can be found. For instance Sanford Levinson's *Torture: A Collection* endeavors to avoid common polemics in search of an earnest theoretical debate of torture's crucial tenants.[17] These legal, political and moral explorations characterize the majority of contemporary work on torture.

While there is clearly a rich academic tradition of ideology and foreign policy, it has scarcely been integrated in any depth in the study of torture. Michael Hunt provides essential reading to this end, stating, "Ideology is the proper concern of all diplomatic historians."[18] Hunt defines ideology as "an interrelated set of convictions or assumptions" that "suggests appropriate ways of dealing with reality," and thus an important part of the attitudes and decisions of individuals and societies.[19] Clifford Geertz, from an anthropological perspective has defined ideology as a "cultural system" and a set of "social facts," that help govern the way individuals and societies

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[16] Dershowitz advocates that torture is justifiable and moral if " it were limited to the rare "ticking bomb" case--the situation in which a captured terrorist who knows of an imminent large-scale threat refuses to disclose it?" He asks "Would torturing one guilty terrorist to prevent the deaths of a thousand innocent civilians shock the conscience of all decent people?" For further explanation see: Dershowitz, Alan, M. "Is There a Torturous Road to Justice?" *The Los Angeles Times*. November 8th 2001. Online. http://articles.latimes.com/2001/nov/08/local/me-1494. Card, Claudia. *Confronting evils: torture, terrorism, genocide*. Cambridge: Cambridge University Press. 2010. Cole, David and Dempsey, James. *Terrorism and the constitution: sacrificing civil liberties in the name of national security*. New York: New Press. 2006.

[17] Levinson Strives to take a balanced, unemotional analysis of key debates that so passionately contested. Levinson, Sanford. *Torture: A Collection*. Oxford University Press. .2004.

[18] Hunt, Michael. *Ideology and U.S Foreign Policy*. New Haven: Yale University Press. 1987 and Hunt, Michel. "Ideology." *The Journal of American History*. Vol.77(1) June 1990. 108-115

[19] Hunt, *Ideology,* 109

understand and interact with reality.[20] Terry Eagleton, on the other hand, asserts that, while there is no "single adequate definition of ideology," many definitions relate to the role of ideas in "the process of legitimation" and "the way in which meaning serves to sustain relations of domination."[21] This paper, therefore, will analyze the role of ideologies in the U.S. understanding of itself and others, as well as the dominant ideas and perceptions that have impacted the relationship of the U.S. towards the use, justification and acceptance of torture.

This thesis will identify key ideological threads in U.S. foreign policy and illustrate their relevance to U.S. torture. Amongst a large literature that explains the normative influences on U.S. foreign policy, concepts such as "American nationalism", "American exceptionalism" and "national greatness" frequently occur. Authors such as Walter Russell Mead and Adam Quinn provide convincing ideational frameworks of U.S. foreign policy, in a similar mold to Hunt's ideological triad of "national greatness", racism and caution towards revolution.[22] Such concepts are also the specific focus of Max Lerner, James Wilson and David Weiss.[23] As such, this thesis will define the ideological basis for torture, a point of departure that this thesis believes is a rich field for investigation.

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[20] Geertz, Clifford. Ideology as a Cultural System. In: *Ideology and Discontent*. Ed. David Apter. pp. 47–76. New York: Free Press.

[21] Eagleton, Terry. *Ideology: An Introduction*. 1991. London: Verso. 4.

[22] Mead, Walter Russell. *Special Providence: American Foreign Policy and How It Changed the World*. New York: Knopf. 2001 and Quinn, Adam. *US foreign policy in context: national ideology from the founders to the Bush doctrine*. London: Routledge. 2010.

[23] Lerner, Max. "History and American Greatness." *American Quarterly*. 1:3 (1949): 209-217 ; Pratt, Julius, W. "The origin of Manifest Destiny." *The American Historical Review*. 32:4 (July 1927): 795-798. Wilson, James Q. "American Exceptionalism." *American Spectator*. 39:7 (Sept 2006): 36-43. Edwards, J, A and Weiss, D Eds. *The rhetoric of American Exceptionalism: critical essays*. Jefferson: McFarland & Company Publications. 2011.

Political culture, closely related to ideology, is also a concept that will be used to explain and evidence the historical and cultural roots of torture. Much like ideology, political culture is a much discussed but often poorly understood or defined concept. Gabriel Almond notes how political culture is often understood broadly as "attitudes to politics," "political values," "national character" or "cultural ethos." Almond, however, criticizes these imprecise definitions, instead asserting that "every political system is embedded in a particular pattern of orientations to political action."[24] Alternatively, Ronald Formisano defines political culture as "basic beliefs and values commitments" but also the "primordial attachments" of a community, noting that it also illuminates forms of power and their consequences.[25] Finally, Robert Berkhofer notes that "political culture was given causal efficacy, as well as being caused," noting that political culture is drawn from the history and experience of a political community, but that it also shapes future decisions, actions and attitudes.[26]

Political culture has much in common with the notion of ideology, both relating to deeply held convictions and beliefs. Political culture, however, can be distinguished from ideology in two respects. Firstly, political culture relates to attitudes that characterize a broad populace, or a significant majority, as opposed to ideologies, which can be more fragmented and held by smaller groups or even individuals. Moreover, political culture tends to be more specific, relating, as Almond

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[24] Almond, Gabriel. "Comparative Political Systems," *Journal of Politics*. Vol.XVIII (1956), 396– 397.

[25] Ronald P. Formisano. "The Concept of Political Culture." *Journal of Interdisciplinary History*, xxxi:3 (Winter, 2001), 396

[26] Berkhofer, Robert F. "Clio and the Culture Concept: Some Impressions of a Changing Relationship in American Historiography." *Social Science Quarterly,* LIII (1972), 198, 299, 300

states, to particular attitudes and orientations towards political action. Ideology, as will be further discussed, tends to relate to broader beliefs, notions and ontologies rather than specific policies or actions. Ideology, therefore, may help to explain elements of political culture, the attitudes and actions that we observe in a particular community. The ideologies explained and identified throughout this thesis, it is argued, are relevant and widespread enough to inspire the acceptance of or justification of torture in the U.S., a notable and influential element of U.S. political culture. Harry Eckstein claims that political culture is "one of two still viable general approaches to political theory and explanation" and can help atone for the failings or shortfalls of rational-choice theory in the explanation of political phenomena, both domestic and international.[27] Political culture is thus an engaging concept given the seemingly contradictory, and even irrational, presence of torture in the twenty-first century.

Two existing themes in the literature, that will be used to support the argument in this thesis, are racial superiority and public opinion and their relevance to torture. Fascinating studies of the role of racial superiority and torture include John Dower's depiction of the racial prejudice, stereotyping and myth in U.S-Japanese conflicts in World War Two and Paul Kramer's proposal that race was the primary ingredient in the "colonial discourse" that vindicated oppression, violence and torture in the Philippines.[28] This thesis will build upon these more isolated accounts of racism and

[27] Eckstein, Harry (1988): "A Culturalist Theory of Political Change." *American Political Science Review*. Vol. 82. 789.

[28] Dower, John W. *War Without Mercy: Race and power in the pacific war*. New York: Pantheon Books. 1986 and Kramer, Paul. *The Blood of Government: race, empire, the United States & the Philippines*. Chapel Hill: University of North Carolina Press. 2006.

torture, drawing parallels between the justification of torture in many cases to show the continuation and stability of these ideologies amongst public officials, the military and the public alike.

Studies and polls of public opinion will also be used to articulate the ideological basis and influence on torture in U.S. foreign policy. Studies by Paul Gronke, McCoy and Mark Tarrant have tend to indicate that, contrary to what leaders may have thought, those who support the use of torture, in the absolute, are usually in the minority, albeit a significant one. Gronke, however, demonstrates that the majority of the American public believes that torture can be "justified sometimes," which is supported by polls by organizations such as Amnesty International and Pew Research Center.[29] Consequently, this paper will explain what may motivate leaders and officials to authorize torture "sometimes," particularly in times of crisis, and why it can be met with acceptance or impunity by the U.S. public, the majority of whom profess to oppose its use.

The task of this thesis is to tie together two, often disparate, historiographical bodies, ideology in foreign policy and the historiography torture. By examining some of the key ideologies and demonstrating their prevalence in historic and public instances of torture, it will show that torture and ideology intersect and that torture has roots that are often neglected or ignored. This intersection will show that American

[29] Gronke, Paul. "U.S Public Opinion on Torture, 2001-2009." *Political Science and Politics*. 43:3 (July 2010):, McCoy, A Question of Torture and Tarrant, Mark. "Social Identity and perceptions of torture: It"s moral when we do it." *Journal of Experimental Social Psychology*. 48:2 (2012). Amnesty International. *"Global Survey of Attitudes to Torture 2014."* Online http://www.amnestyusa.org/pdfs/GlobalSurveyAttitudesToTorture2014.pdf. 4. & Drake, Bruce. "Americans views on use of torture in fighting terrorism have been mixed." *Pew Research Centre*. December 9th, 2014. Online. http://www.pewresearch.org/fact-tank/2014/12/09/americans-views-on-use-of-torture-in-fighting-terrorism-have-been-mixed/

torture is not the result of "a few bad apples" in the armed forces or agencies overseas, but a sour consequence of more widespread, mainstream ideologies.[30]

The Ideological Basis for U.S. Torture

Three ideologies capture the ideological basis of U.S. torture: American nationalism, Jacksonianism and racial superiority. These ideologies are drawn from and follow some well-established historical works. Each ideology not only is pervasive in the leadership, political culture and history of the nation but also has a long history in U.S. foreign policy making. It is no coincidence; therefore, that torture does also. These traits have shaped U.S. foreign policy in order to encourage, excuse or permit torture, especially in times of crisis. As such, each historical period and each instance of torture in this essay will reflect the prevalence of these ideologies and their role in propagating torture in that context. In order to relate these ideologies to torture beyond mere correlation, this thesis will now define and explain each ideology.

As detailed in the aforementioned definitions, ideology is an important element of how policy makers and publics consider issues of policy and justice. This is clear in Heather Gregg's assessment of the global War on Terror as "the battle for hearts and minds" against those with "cosmic war thinking."[31] The pertinence of ideology is even recognized by those who despise its influence, such as George Kennan who lamented how U.S foreign policy was "easily led astray" by the "legalistic and moralistic"

[30] The Administration assigned blame for the Abu Ghraib abuses of 2004 to "a few bad apples," a claim refuted by McCoy in *A Question of Torture* (2006), amongst others.

[31] Gregg, Heather S. "Fighting Cosmic Warriors: Lessons from the First Seven Years of the Global 'War on Terror." Studies in Conflict & Terrorism. 2009. 32:3. 188.

wants of ideas.[32] Consequentially, this thesis takes Hunt's position that, for better or for worse, it is crucial to ask "what fundamental notions – for example, about human nature, the constituents of power and national mission – do policy makers hold in their heads?"[33] Ideology, therefore, is important in understanding why the U.S. and its leaders have turned to torture throughout its history.

American nationalism is the first of these ideologies. This can often be a broad term that often embodies several "fundamental American thoughts and emptions lumped together," such as American "greatness" or "exceptionalism."[34] There is, however, is a body of work from which we can draw out its two essential constituents. Firstly, Lerner notes that, "Americans have rarely questioned the fact of their greatness as a people."[35] Originating from America's unique foundation and the subsequent "transcontinental expansion of the nineteenth century," much of this identity rests in the "founding giants" and the "wise-and-great constitution" and relates intrinsically to the values of "manifest destiny."[36] The consequence of American nationalism, according to Jason Edwards and David Weiss, is a widespread and persistent belief that "the U.S. is unique, if not superior, when compared to other nations."

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[32] Kennan, George. *American Diplomacy*. Chicago: University of Chicago Press. 1985. 93

[33] It is also notable that this represents an epistemological and analytical choice to acknowledge and study what Hunt calls "the new cultural history" and "the structures of language and rhetoric." Hunt, *"Ideology."* 1990. 109

[34] Lerner, Max. "History and American Greatness." *American Quarterly*. 1:3.1949. 210.

[35] Like Edwards and Weiss, Lerner relates this to the role of religion, founding fathers and the "wise and great Constitution." 210. Lerner, *History and American Greatness*. 209

[36] Pratt, Julius, W. "The origin of 'Manifest Destiny.'" *The American Historical Review*. 32:4. July 1927. 795 and, Lerner, *History and American Greatness."* 210

The origins and initial character of American nationalism might be broadly separated into three cultural notions. The first is the idea of America as "a bounteous land," and the entitlement and pride over the perceived uniqueness, abundance and superiority of the nation. Closely connected with this is the assumed innocence and superiority of American nationalism, closely connected to America's religious covenant, as Christianity was central to the political foundation of the U.S., but also to its self-perception and its relations with other peoples. Finally, American nationalism incorporates a sense of innocence in the identity of the U.S., based partly on the aforementioned religious covenant, which served to justify the expansion and America's "God-given" right to expand and eventual leadership of the U.S.[37]

As such, Jason Edwards and David Weiss explain, American nationalism is a crucial element of the "political, cultural and Social DNA" of the U.S.[38] In line with this assessment, James Wilson groups together concepts of "American exceptionalism," "manifest destiny" and "American greatness" as intertwined notions which underpin American nationalism and how "Americans identify more strongly with their own country than do people in many other affluent democracies." To this end, "what Tocqueville noticed about American uniqueness 170+ years ago remains even more valid today" regarding American nationalism.[39]

The validity and presence of American nationalism is best evidenced in its ability to inspire American foreign policy beliefs and actions. During the twentieth

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[37] Edwards, J, A and Weiss, D Eds. *The rhetoric of American Exceptionalism: critical essays*. Jefferson: McFarland & Company Publications. 2011. 1

[38] Ibid. 1.

[39] Wilson, James Q. "American Exceptionalism." *American Spectator*. 39:7 (Sept 2006): 36-43.

century, for instance, American nationalism "hardened to destroy obstacles of the future" and it was assumed that "American leadership would be welcomed by all." Edwards and Weiss assert that this sentiment "penetrates every period of American history," from the frontier thesis to President Barack Obama's address to Congress that stated, "this is America. We don't do what is easy, we do what is necessary to move this country forward."[40] This rhetoric demonstrates that when the founding fathers conceived of the U.S. as "a morally superior outsider," it set in motion a national identity and a national purpose that would have "significant consequences for the nature of American internationalism" for many centuries to come.[41] Consequently, American nationalism relates intrinsically to the use of torture in U.S. foreign policy, enabling the U.S. to justify the use of torture by drawing upon the morality, superiority and even theology of its leadership, whatever the character of that leadership may be.

The second ideological trait that permeates American history and is crucial to the understanding of torture is "Jacksonianism." Walter Russell Mead, who assesses Jacksonianism as a crucial voice in U.S foreign policy, portrays it as a uniquely American "political instinct." While staunchly espousing "self reliance" and "individualism," Jacksonians tend towards unrelenting action if the national interest or security is threatened, consequentially inviting criticism of "trigger happy cowboy

[40] Edwards and Weiss, quote President Barack Obama's "Address Before a Joint Session of the Congress", February 24th 2009 in *The Rhetoric of American Exceptionalism*. 1.

[41] Pfaff, William *The Irony of Manifest Destiny. The Tragedy of America's Foreign Policy*. London: Walter and Company. 2010 and Quinn, Adam. *US foreign policy in context: national ideology from the founders to the Bush doctrine*. London: Routledge. 2010. 60.

diplomacy."[42] Mead explains that Jacksonian America takes the form of a "rattlesnake" that, once stepped on, is aggressive and sees no substitute for victory.[43] Although not recognizing Jacksonianism by name, it is the character illuminated by Kennan when he describes America as a monster with "a body as long as this room and a brain the size of a pin."[44] Kennan recognizes this characteristic in the irrationalities and sentiment that drove fierce military reactions to the Two World Wars and intolerant anger in the Cold War that, he argues, was driven by these reactionary sentiments despite action not advancing America's position in the world.

Other scholars such as Edward Pessen and Paul Goodman understand Jacksonianism as the legacy of Andrew Jackson's era of unique "society, personality and politics."[45] Frank Otto presents a series of essays that characterize Jacksonians as "tough nationalists" in the way they approached the frontier West, legal and moral punishment and foreign policy. These components, he argues, comprise "one of the most significant epochs in American history."[46] The legacy of this era is evident in both national and domestic affairs, and relates closely to the tales of foundation, expansion and religion that also characterize American nationalism. The Jacksonian voice in American foreign policy becomes especially strong in times of threat or fear. Richard Hofstadter has written of *The Paranoid Style in American Politics,* whereby the U.S. is quick to judge, demonize and act strongly against its perceived aggressors

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[42] Alongside the ideologies of Hamiltonians, Wilsonianism and Jeffersonianism. Mead, *Special Providence*. 243.

[43] Ibid. 224.

[44] Kennan, *American Diplomacy*. 70

[45] Pessen, Edward. *Jacksonian America: society, personality and politics*. Homewood: Dorsey Press. 1978. 12.

[46] Frank Otto. *Essays on Jacksonian America*. New York: Holt, Rinehart and Winston. 1970. 37.

or enemies.[47] As such, Jacksonianism not only encapsulates the fear and anger that make violence in general, as well as torture, a desirable and justifiable means, but it also facilitates torture via the demonization of the enemy. Consequentially, the voice that advocates torture, its remarkable persistence and its "extrajudicial" moral validation, is a profoundly Jacksonian one.[48]

The final ideology that is pertinent to torture and that is well documented throughout American history is racial superiority. For good reason, scholars have more readily addressed racial superiority as it applies to torture, and thus this ideology completes this broader ideological understanding of torture throughout American history. Michael Krenn notes that racial perceptions have, until twentieth century history, been a "distinctively domestic issue," especially in relation to the treatment of Native Americans and slaves. Krenn argues, however, that "by the end of the Jacksonian period, concepts of race had already left an indelible impression on the new and growing nation's foreign policy."[49] Dorothy Roberts explains the way in which racial superiority applies in instances of torture, justifying "degradation, hierarchy and power" and that by "classifying the enemy as less than human, it seems acceptable to treat them inhumanely."[50] Roberts deduces that racial superiority is a key factor in the definition and treatment of the enemy, ideas espoused by scholars

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[47] Hofstadter, Richard. "The Paranoid Style in American Politics." *Harpers Magazine*. November 1964: 77-86. Online. http://archive.harpers.org/1964/11/pdf/HarpersMagazine-1964-11-0014706.pdf?AWSAccessKeyId=AKIAJXATU3VRJAAA66RA&Expires=1460998349&Signature=jgVeEDmDvB83AdpQjMKTGlHs%2BGY%3D

[48] Raviv describes the legal justification as "extrajudicial" in relation to the logic and morality of other legal disputes. *Torture and Justification*. 146.

[49] Krenn, Michael. *The Impact of Race on U.S Foreign Policy*. New York: Garland. 1999. 2.

[50] Roberts, Dorothy. "Torture and Biolpolitics of Race." *University of Miami Law Review*. 62:2 (Jan 2008): 229.

such as Glenn Anthony May and John Dower relating to the Philippines and Japan respectively. Given these existing connections between racial superiority and torture, this thesis will focus on specific instances of torture where this ideology is tangible and, crucially, how it overlaps with Jacksonianism and American nationalism.

The introduction of each of these concepts not only has foreshadowed their role as ideological drivers of torture, but also has begun to demonstrate their intertwined nature. At a conceptual level, for instance, one can argue that a people cannot consider itself great without inferring the inferiority of other peoples. Additionally, one can make theoretical links between the grand claims of American nationalism and the necessity for exceptionally aggressive warfare to protect the nation when its security or mission is threatened. Finally, the specific historical contexts in which these ideologies were forged have impacted their nature. For instance, the development of racial hierarchies in the Jacksonian era led to a unique style of racial justice, and the inception of American nationalism in the context of a new country and a fresh start cultured the idea of Americans as a blameless people. These characteristics and connections had consequences for the propagation of torture for centuries to come.

Defining Torture

The *United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* defines torture as: "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."[51]

Although authoritative, this broad definition covers all manners of "degrading treatment or punishment" and contains subjective terms such as "severe pain or suffering and discrimination of any kind," ambiguities which have been exploited since the ratification of the convention. For instance, U.S. Assistant Attorney General Jay Bybee notoriously argued that to constitute torture under the definition of the Convention and under Section 2430 of Title 18 of the U.S. code (both of which refer to "severe pain" or suffering"), physical pain must be "of such an intensity akin to that which accompanies serious physical injury such as death or organ failure."[52] The convention also fails to "distinguish torture from other forms of coercion, manipulation or intimidation."[53] Torture, of course, is a form of violence, but not all violence, manipulation, intimidation or coercion is torture. Although the convention and the literature offer a variety of definitions and perspectives, it is possible to draw

[51] The United Nations. "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." February 4th 1985. Article 1. Online. http://www.hrweb.org/legal/cat.html

[52] U.S. Department of Justice. Memorandum for Alberto R. Gonzales, Counsel to the President. Re: Standards of Conduct for Interrogation under 18 U.S. C. §§ 2340-2340. August 1st 2002. 1. Online. http://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-gonzales-aug2002.pdf Further discussion of this instance and the "Torture Memos" will follow in Chapter 3.

[53] Sussman, David. "Defining Torture." *Case Western Reserve Journal of International Law37.2/3 (2006): 225.*

out a number of key characteristics that distinguish an act as torture from other acts of violence, however cruel.

The first is that torture is associated with a specific purpose, outside of the usual realm of legal, judicial punishment and separate from violence altogether, however horrific. The third century Roman jurist Ulpian declared "By *quaestio* (torture) we are to understand the torment and suffering of the body in order to elicit the truth."[54] Eighteen centuries later, torture is still associated with, as Edward Peters states, "the infliction of suffering, however defined, upon anyone for any purpose."[55] Torture is perhaps most commonly associated with the use of violence and inflicting suffering during interrogation in order to elicit information, a confession or somehow else persuade the victim. While suffering for "any purpose" seems too broad a definition there are other types of purposed suffering that can be considered torture, including public demonstrations of violence to bring shame, bring retribution or as a deterrent or demonstration of superiority or dominance. As such, a distinct "political purpose" is a more appropriate and slightly less subjective phrase by which to characterize torture and by which to separate it from less specific variations of social violence.

Alongside this purpose, Ulpian adds, "Judicial torture refers to the use of physical coercion by officers of the state in order to gather evidence."[56] While this is a narrow definition of judicial torture, it indicates something of the relationship between the torturer and the victim of torture. Moreover, the Convention Against Torture also

[54] Peters, Edward. *Torture*. Philadelphia: University of Pennsylvania Press. 1985. 1.
[55] Ibid, 2.
[56] Ibid.1.

requires that the act be "inflicted by or at the instigation or with the consent or acquiescence of a public official or other person acting in an official capacity."[57] This, however, refers specifically to the Convention's jurisdiction over state actions, as private torture is generally a criminal act under national laws. David Sussman notes that a "forced passivity" on behalf of the victim distinguishes torture from other forms of violence. Torture, he adds, is "debilitating and dominating." Consequently, "police who use tear-gas to disperse are not engaging in torture, regardless of how painful the gas may be," because of the opportunity of the other in this case to somehow mitigate or respond to this treatment by leaving the area and fleeing the gas.[58] It is unsurprising, therefore, that laws and debates surrounding torture primarily focus on the treatment of prisoners, held legally or otherwise. Consequently, although a state or any other type of official need not be the perpetrator in order for it to be considered torture (terrorists, for instance, have often tortured), the power, domination and one-sided nature is another defining characteristic of torture.

The final key distinguishing characteristic of torture, which is central to the aforementioned legal definitions, is the severity of pain and suffering involved. This was highlighted by the European Court of Human Rights, which in 1978 reasoned that "the distinction between torture and inhuman or degrading treatment derived principally from the difference in the intensity of the suffering inflicted. The term torture attached a special stigma to deliberate inhuman treatment causing very serious

[57] United Nations. *The Convention Against Torture,* 1.

[58] Sussman. *Defining Torture,* 225.

and cruel suffering."[59] The word torture stems from the Latin "*torquere"* which means to twist or torment. Biologists and anthropologists have written at length about pain in the body, including pain experienced during torture. Sussman detailed that pain during torture must be "acute" or "prolonged," produces "fear, disorientation and hopelessness" and is, by its very nature, mentally as well as often physically harmful. As a condition for ratifying the Convention Against Torture, the U.S. defined mental torture as mental harm caused by "the intentional infliction or threatened infliction of severe physical pain," the administration of "mind altering substances," the "threat of immediate death" to the victim or another.[60]

This feature of torture, however, is the most ambiguous, with many differing stances being taken on what constitutes "severe" pain, often in highly political circumstances. The U.S. assertion that torture must comprise serious physical pain akin to "such as death or organ failure" can be contrasted with the use of "acute" pain adopted by Greece and Luxemburg, or "particular pain" used by Latvia. Egypt, on the other hand, states, "imposes no prerequisites concerning the degree or extent of pain or suffering."[61]

These definitions and the differentiating features of torture bring some structure and clarity to something that Gail Miller exclaims is "hopelessly

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[59] European Court of Human Rights. "Republic of Ireland v. The United Kingdom, 2 E.H.R.R. 25, 36 (1979-80)." Online. *http://lawofwar.org/Ireland_v_United_Kingdom.htm*

[60] U.S. Reservations, Understandings and Declarations, supra note 24. The full text of the understandings is set out at infra note 133. This definition of mental harm is also used in 18 U.S.C. § 2340 and 8 C.F.R. § 208.18

[61] Miller, Gail H. "Defining Torture." *The Cardozo Law Schools Floersheimer Center for Constitutional Democracy*. 2003. Online. https://www.cardozo.yu.edu/sites/default/files/Defining%20Torture.pdf. 11.

subjective."[62] Edgerton puts forward that torture "typically involved the intentional infliction of both physical and emotional pain, often excruciating, on a defenseless victim… motivated by a variety of goals," a definition that incorporates each of the distinctive characteristics of torture.[63] These are: severe mental and physical violence; a specific, an extrajudicial and political purpose; and its enactment on a powerless victim. Although adding to its subjectivity, Miller notes that torture, beyond its "legal jargon," also "carries the weight of humanity's basic sense of morality,"[64] indicating that its recognition, as well as its abolition, can be universal. This thesis will now present instances of torture in many of the defining moments of U.S. history and foreign relations, each of which not only possess the defining features of torture, but that also express the ideological basis for torture.

[62] Ibid. 36

[63] Edgerton. *The Worldwide Practice of Torture,* 1.

[64] Ibid. 37.

Chapter 1: U.S. Torture and Its Ideological Basis, 1776 – 1900

Torture has been evident in a number of troubling historical episodes in the creation and evolution of the nation. Instances of torture were coupled with and facilitated by the presence of American nationalism, Jacksonianism and racial superiority in the society and politics of the U.S. since the eighteenth century. These ideologies not only help explain instances of torture, but they also elucidate the continuity of torture in the U.S. and foreshadow its use in overseas foreign policy.[1] The presence of torture and its ideological basis in the early history of the U.S., it will be demonstrated, foreshadow the use of torture in U.S. foreign policy for centuries to come; although the threats the U.S. faced would change, the use of torture would persist.

A fascinating source that demonstrates the presence of American nationalism in early U.S. history is *The Great Nation of Futurity*, written in 1839 by John Louis O'Sullivan, who coined the term "manifest destiny."[2] The fundamental belief expressed by O'Sullivan, a political columnist and editor at the time, is that "our country is destined to be the great nation of futurity. It is so destined." Not only this, but O'Sullivan declared that "America is destined for better deeds" than the colonial wars of European nations, instead destined to "the fulfillment of our mission –

[1] One might consider that torture and violence used against Native Americans or African Americans acts of foreign policy. Although occurring domestically, citizens often saw these peoples as non-citizens outside of their nationality.

[2] Scholars such as Pratt trace the term "Manifest Destiny" to O"Sullivan. "The Great Notion of Futurity" is an article published in *The United States Democratic Review*. Vol.6, Issue 23. 426-430. 1839.

freedom of conscience, freedom of person and freedom of trade, universally."[3] Underpinning this great destiny was the fundamental assumption of entitlement, a crucial component of early American nationalism.

The debates surrounding the American claim to Oregon aptly summarize the impact of American nationalism on early U.S. thought. O'Sullivan declared that it was "the right of our manifest destiny to overspread and possess the whole of our continent."[4] Additionally, in line with the religious culture of the time, America's expansion and superiority was thought to be directly gifted by God, O'Sullivan declaring, "the nation of many nations is destined to discern to mankind the excellence of divine principles; to establish on earth the noblest temple ever dedicated to the worship of the Most High… Yes, we are the nation of progress."[5]

These lofty ambitions, responsibilities and entitlements not only demonstrated the values and rhetoric of early American internationalism but also the belief that "the boundless future will be the era of American greatness" and that America shall "smite unto death the tyranny of kings, hierarchs and oligarchs and carry the glad tidings of peace and good will" in the fulfillment of her mission.[6] These words, as well as helping to explain the cognition behind American innocence and the mission of American nationalism, foreshadow the Mexican-American War as well as the character of American internationalism to come in the twentieth century. America's right to ruthless international action and Americans' assumed position as "leaders of

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[3] O'Sullivan. *The Great Nation of Futurity*. 426

[4] O'Sullivan, Louis. "The True Title." The *New York Morning News, 27th December, 1845*. Quoted in Pratt, *The Origins of Manifest Destiny*. 797.

[5] O'Sullivan, *The Great Nation of Futurity*. 427.

[6] Ibid. 430.

the free world" expressed from the twentieth century onwards.[7]

This rhetoric and sentiment, these sources show, have deep historical roots and are no doubt entrenched in the somewhat unique history of the U.S. For instance, many settlers believed that God himself desired and blessed their westward expansion into "free" lands, as well as their racial superiority over Native Americans and, later, slaves.[8] Moreover, the suggested superiority and entitlement would build a sense of identity and purpose that would shape American actions and attitudes for centuries to come. This thesis does not argue that instances of torture in early U.S. history and in contemporary foreign policy were uniform, but instead that instances of torture in the early and domestic history of the U.S. demonstrated the same ideological justification of torture and embedded the place and acceptance of torture in U.S. history.

Crucially, this type of rhetoric is evident in the presence of torture in early American history. Thomas Jefferson, who "initiated the Indian removal policy" in Mississippi in order to obtain land, revealed in a manuscript letter to John Adams in 1812 that "we shall be obliged to drive them, with the beasts of the forest into the Stony mountains" accepting that this act "will relapse into barbarism and misery."[9] American nationalism, racial superiority and racial dehumanization were all important in the domestic justification of violence and torture. What is also evident in this communication, however, is that Jefferson details how such barbarism will "secure our women and children for ever from the tomahawk and scalping knife, by removing

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[7] Drinnon, Richard. "The Metaphysics of Empire Building" in Krenn, *The Impact of Race*." 29.

[8] U.S History. *Manifest Destiny*. Online. http://www.ushistory.org/us/29.asp

[9] Ibid. 31.

those who excite them."[10] This Jacksonian sentiment unites the triad of aforementioned ideologies, as the issue is framed in terms of a violent threat, which must be met with aggression, rather than in terms of Jefferson's desire to expand and gain land.

There are numerous specific accounts of torture inflicted on Native Americans, including those of Reverend Daniel Sabin Butrick, a minister of the "Word of God to the heathen, in the service of the American Board of Commissioners for Foreign Missions" in the early nineteenth century.[11] Amongst his detailed depiction of the Cherokee people and their culture, Butrick noted "the poor Cherokees are not only exposed to temporal evils, but also to every species of moral desolation." In one diary entry, Butrick writes "in addition to the neglect and disregard for the dying Cherokees, these women also endured degradation and sexual torture," including women who were tied to trees, forced to drink alcohol and raped.[12] Such torture was not uncommon on the "trail of tears," Butrick exclaiming, "O what a sweeping wind has gone over, and carried its thousands into the grave; while thousands of others have been tortured and scarcely survive."[13] Of course these instances are deeply connected to American nationalism and "the right of our manifest destiny to overspread and possess the whole of our continent," as well as the racial superiority and

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[10] "Thomas Jefferson to John Adams." Monticello. June 11th, 1812. Library of Congress. Online http://www.loc.gov/exhibits/jefferson/jeffwest.html#178

[11] Tackett, David James. "Rev. Daniel S. Butrick's 'Indian Antiques': His misison to the Cherokee Nation and obsession to prove that they are the lost ten tribes of Israel." *Theological Research Exchange Network*. January 2011. 1.

[12] Perdue, Theda. *Cherokee Women and the Trail of Tears*. Eds. Vicki Ruiz and Ellen Carol DuBois. *Unequal Sisters: A Multicultural Reader in U.S. Women"s History*. 3rd ed. New York: Routledge, 2000. 100.

[13] Rozema, Vicki, ed. *Voices from the Trail of Tears*. Winston-Salem: John Blair, 2003. 148.

discrimination evident in settlers' treatment, degradation and removal of indigenous peoples, the "heathens" to whom Butrick was sent.[14]

In addition to the treatment of indigenous Americans, torture was potent in the treatment of African Americans throughout the nineteenth century and beyond. One of the most vividly documented instances of this was the lynching of Henry Smith in Paris, Texas, in 1893. The article *Torture in Texas: Savage Cruelty Visited Upon a Negro Miscreant* is a fascinating account of the broad social support behind torture.[15] It describes how a crowd "numbering 10,000 people," many of whom had travelled across many states, gathered to watch the "slow, lingering death" of Smith, who was dragged through the streets before being tied to a chair and burnt on stage in front of the community that "looked on and hails its delight and approval." Smith, who had reportedly confessed to murdering the young child of a police officer, was burnt with hot irons, slashed with knives and then, after death, mutilated, burned and taken home by members of the crowd. Confirming that this was far more than just capital punishment, the *New York Times* reported that Smith was "tortured for fifty minutes by red hot irons thrust against his body and down his throat." Moreover, "every contortion of his body was cheered by the crowd," who later took home all manner of souvenirs from the event, including "pieces of charcoal."[16]

Beyond the brutality of this event, or its moral or constitutional legality, there

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[14] O'Sullivan, Louis. "The True Title." The *New York Morning News, 27th December, 1845*. Quoted in Pratt, *The Origins of Manifest Destiny*. 797.

[15] *"Torture in Texas: Aurora Daily Express."* February 2nd, 1893. Online. https://news.google.com/newspapers?id=1aIoAAAAIBAJ&sjid=CQYGAAAAIBAJ&pg=2000,6157751&dq=paris+texas&hl=en

[16] *The New York Times*. "Another Negro Burned: Henry Smith Dies at the Stake." February 2nd 1893. Online. http://query.nytimes.com/mem/archive-free/pdf?res=9F01E5DE103BEF33A25751C0A9649C94629ED7CF

are two notable cultural qualities. The first is the racial dehumanization involved in this case. The Aurora Daily Express author describes how "it dragged itself" and how "its head" was maimed, further exhibiting the racial dehumanization and hierarchy that applied to "Negroes" in these instances of public torture. Moreover, it is clear that thousands in the crowd perceived Smith as sub-human and deserving of torture, a notion that is intertwined with the defamation of the body in many instances such as these. Secondly, there is a remarkably Jacksonian concept of "justice" evident, as the crowd hailed how "the punishment fits the crime." The Aurora *Daily Express* acknowledged that this was barbaric torture, likening it to "the mockery of a king upon his throne" and describing it as "a scene that might be several hundred years old."[17] Newspaper articles even reported that trains were scheduled in order to transport people to witness and relish in his execution. These statements make it clear that some were at least aware of its barbaric nature at the time, just as many are outraged and shocked to hear exposés of torture such as those at Abu Ghraib. The justification and enjoyment of torture, however, appears to be based in Old Testament forms of vengeance and the harsh racial and punitive standards of the Jacksonian era.

Such instances of torture were, unfortunately, frequent in the context of racial discrimination in the early history of the U.S., especially, but not exclusively, associated with slavery. For instance, images show Wilson Chinn, a slave from Louisiana who was burned and branded, standing next to spiked "instruments of torture used to punish slaves."[18] Branding and burning was a common form of

[17] Ibid.

[18] Library of Congress. *Wilson Chinn, a branded slave from Louisiana--Also exhibiting instruments of torture used to punish slaves*. 1864. Online. https://www.loc.gov/resource/cph.3b36701/.

degradation or punishment of slaves in the nineteenth century, a practice that, even early in the legal history of the nation, was illegal.[19] Nineteenth century photographs also show implements such as iron masks, collars, leg shackles and spurs "used to restrict slaves" as well as torture "chambers," such as the one discovered at the LaLaurie mansion in New Orleans in 1834.[20] In this "torture chamber," slaves were "routinely brutalized," including acts of whipping, being tied up and being "spiked with iron collars."[21]

As in the case of Henry Smith, lynching was a particularly infamous and frequent occurrence in the history and political culture of the U.S., again with particular connections to slavery. There is widespread evidence of this torturous practice, including the lynching of murder suspects in Louisiana, Texas, Georgia, California and Alabama.[22] Stewart Tolnay and Elwood Beck have found "2805 documented victims of lynch mobs killed between 1882 and 1930 in ten southern states" alone, a period of time they label "the lynching era." Of these victims, 89% were black, and of these, 94% died at the hands of "white lynch mobs."[23]

In addition to punishment of specific offenders, Tolnay and Beck argue that

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[19] The Louisiana Digital Library. *La Gazette*. "Found slave branded with the letters B.M. and a remark on the cruelty of this practice in a New Orleans newspaper in 1825.." September 12th 1825. Online. http://cdm16313.contentdm.oclc.org/cdm/singleitem/collection/LWP/id/5532/rec/4

[20] Library of Congress. "Iron mask, collar, leg shackles and spurs used to restrict slaves." Online. https://www.loc.gov/item/98504457/

[21] *History*. "1832: A torture chamber is uncovered by arson." 2009. Online. http://www.history.com/this-day-in-history/a-torture-chamber-is-uncovered-by-arson

[22] Library of Congress. "Lynchings in Franklin Louisiana in 1874." Online. http://cdm16313.contentdm.oclc.org/cdm/compoundobject/collection/LWP/id/4592/rec/10Without Sancturary and "Photographs and Postcards of Lynching in America." 2005. Online. http://withoutsanctuary.org/main.html

[23] Stewart E. Tolnay and E.M. Beck,. *A Festival of Violence: An Analysis of Southern Lynchings*. 1882-1930. Urbana and Chicago: University of Illinois Press, 1992. ix.

lynching had three "entwined functions." Firstly, "to maintain social order over the black population," secondly "to suppress or eliminate black competitors for economic and political or social rewards" and, finally, "to stabilize the white class structure and preserve their privileged status."[24] It is for this reason that this thesis classified lynching in the U.S. as torture, thus meeting the criteria of extrajudicial punishment, a helpless victim and a specific purpose.

It is worth noting however, that lynching could also be classed more generally as societal violence that, although brutal and retributive, did not have a highly specific purpose such as to obtain information. It did, however, have a highly political relevance and purpose, such to be included in many definitions of torture, including that of this thesis. Whether lynching is classed as torture or not there are clear continuities between the proliferation of societal violence such as lynching and the subsequent propagation of torture. Particularly, the brutal treatment of and the racial superiority over the domestic "other", in this case the African Americans who were lynched, parallels quite clearly with the torture of enemies overseas, which would be justified, accepted or overlooked in future U.S. foreign policy.

Should the brutality or prevalence of this torture need further evidence, the case of William Brown rivals that of Henry Smith in its vigor and cruelty. Brown, a suspect for the assault of a woman in Omaha, "ended up in the hands of a crazed mob. He was beaten into unconsciousness. His clothes were torn off" and "he was dragged to a nearby lamp pole and a rope was placed around his neck." After he was hoisted in the air and hung, he was brought down, tied to a car and "towed to the intersection of

[24] Ibid. 18-19.

17th and Dodge" and "his body was burned." Following this, "pieces of the rope used to lynch Brown were sold for 10 cents each and, finally, Brown's charred body was dragged through the city's downtown streets."[25]

The Legacy of Torture in Early U.S. History

While countless more illustrations of torture could be brought to bear, there are two important conclusions that can be drawn about the place and character of torture in early U.S. history. The first is that torture was deeply engrained in the very early history of the U.S, in race relations and in the practice of slavery. Moreover, in each of these contexts, torture was underpinned by the ideologies of American nationalism, racial superiority and Jacksonianism. It is clear that torture during the founding and geographical expansion of the U.S. was deeply entwined with, and justified by, American nationalism and Jacksonian notions of justice and defense against a perceived enemy. Moreover, James Scott asserts, "relations of domination consist of the symbolization of domination by demonstration and enactment of power, including the beating, torture, and execution of slaves. Such performances confirmed the slaveholder's dominion and made the captive body the vehicle of the master's power and truth."[26] Thus, torture of slaves, including specific practices such as lynching, was a widespread and far reaching phenomenon, underpinned by the ideology of racial

[25] See Library of Congress. "The burning of William Brown, Omaha, Neb., Sept. 28, 1919." Online. http://www.loc.gov/pictures/item/95518061/ and Nebraska Studies. *Racial Tension in Omaha: A Horrible Lynching*. Online.http://www.nebraskastudies.org/0700/frameset_reset.html?http://www.nebraskastudies.org/0700/stories/0701_0134.html

[26] Scott, James C. *Domination and the Arts of Resistance: Hidden Transcripts*. Yale: Yale University Press. 1990. 10.

superiority.

Clearly, episodes such as the torture and execution of Henry Smith or William Brown are no longer common in the U.S. David Garland suggests, however, that we should not view public lynching as an archaic practice that has disappeared with modernity. Rather, we should recognize the "economy of suspended rights" and "the frailty of civilized sensibilities in situations where dominant groups feel threatened and insecure," ideological sentiments that continue to the present day.[27] One alarming example of this in modern U.S. history was the torture and murder of Matthew Shepard, who was "kidnapped, robbed and pistol-whipped" before being left for eighteen hours, tied to a fence in a coma.[28] Shepard died shortly after being found and taken to hospital; his attackers, Russell A. Henderson, and Aaron J. McKinney, were both sentenced for Shepard's murder. It was also judged that Shepard's homosexuality was a major factor in his torture and murder and his death led to the "Local Law Enforcement Hate Crimes Prevention Act of 2009," otherwise known as "The Matthew Shepard and James Byrd, JR, Hate Crimes Prevention Act of 2009."[29] This is just one example of how torture and the harsh abuse of a perceived other persists today. Not only, therefore, can torture be fortified by the ideology of racial superiority and the dehumanization of the victim, but also by Jacksonian concepts of harsh

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[27] Ibid. 832.

[28] "Pistol Whipping" here describes the use of a gun as a blunt instrument, which in this case was so severe as to put Shepard into a coma and cause us eventual death. Brooke, James. *The New York Times*. "Gay Man Dies From Attack, Fanning Outrage and Debate." October 13th , 1998. Online. http://www.nytimes.com/1998/10/13/us/gay-man-dies-from-attack-fanning-outrage-and-debate.html?pagewanted=all

[29] U.S. Department of Justice. *Remarks by the President at Reception Commemorating the Enactment of the Hate Crimes Prevention Act*. 25th June 2009. Online. https://www.justice.gov/crt/matthew-shepard-and-james-byrd-jr-hate-crimes-prevention-act-2009-0

retribution and violent justice. Furthermore, these ideologies would prove to be influential in the conduct of the U.S. at home and overseas, leaving an "indelible impression on the new and growing nation's foreign policy."[30]

The second conclusion is that torture in the founding of the U.S. and in the era of slavery would prove to have an intoxicating and corrupting legacy on the political culture of the U.S. and its people. The prevalence of torture in the early history of the U.S. served to engrain specific attitudes and orientations towards torture for future generations. Specifically, the notion of torture as an acceptable form of justice or extreme punishment, the justification of torture against enemies or extreme threats and the attachment of torture to racial superiority have become influential elements of U.S. political culture that have endured to the present day.

This is in part demonstrated by the continuation of torture into the twentieth century, not only in foreign policy, but also in domestic instances. The practice of lynching, for instance, accelerated after the abolition of slavery to continue the subjugation of African Americans after their emancipation. Richard Lacayo notes that "at their worst, lynchings were episodes of sunlit municipal sadism. Newspapers announced the time and place in advance. Excursion trains were organized to move crowds to the scene." By 1908 "lynching scenes became a burgeoning sub-department of the postcard industry," such that the U.S. Postmaster General banned the cards from the mails." "Even the Nazis," Lacayo asserts, "did not stoop to selling souvenirs of Auschwitz."[31]

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[30] Krenn. *The Impact of Race,* 2.

[31] Lacayo, Richard. *TIME*. Blood at the Root. April 2nd 2000. Online. http://content.time.com/time/magazine/article/0,9171,42301,00.html

Aside from lynching, the continuation of torture and its legacy in political culture is also exemplified in police conduct and law enforcement in the nineteenth and twentieth centuries. The Los Angeles Herald in 1896 reported on "The Cruel Whipping Post in Delaware," a customary way to control and interrogate prisoners in various prisons across the nation.[32] With stark parallels to ancient Chinese methods, as well as twentieth century instances of U.S. torture at Abu Ghraib, there are also images and tales of "water torture" or "waterboarding" in a New York prison in 1858. *Harper's Weekly Newspaper* reported "Auburn State Prison: The Negro convict, showered to death." With similarities to waterboarding, the "shower-bath" involved stripping and binding the prisoner, either standing or sitting, before pouring water into their mouth to the point of near drowning. The article goes on to report "the use of the shower-bath as a means of coercing criminals into submission to the orders of prison authorities began to be general about the year 1845."[33]

As with lynching and other forms of and attitudes towards torture, these practices also continued into the twentieth century. The 1931 "Report on Lawlessness in Law Enforcement" often referred to as the "Wickersham Commission," found that police "use of physical brutality, or other forms of cruelty, to obtain involuntary confessions or admissions – is widespread." Specific tactics included "threats, intimidation, physical brutality and illegal detention."[34] The excuses included in the

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[32] *Los Angeles Herald*. "The Cruel Whipping Post in Delaware." Volume 25, Number 291. July 19th 1896. Online. http://cdnc.ucr.edu/cgi-bin/cdnc?a=d&d=LAH18960719.2.37

[33] Harpers Weekly. Volume 2. *Harpers Magazine Company*. 1858. 808.

[34] Library of Congress. *Records of the Wickersham Commission on Law Observance and Enforcement: Part 1, Records of the Committee on Official Lawlessness*. Research Collections in American Legal History, University Publications of America, 1997. Online. http://www.lexisnexis.com/documents/academic/upa_cis/1965_WickershamCommPt1.pdf. 1181.

report included that it is "necessary to get at the facts," and "is used only against the guilty," that various "obstacles . . . make it almost impossible to obtain convictions" any other way, that it is "inevitable and . . . an excusable reaction to the brutality of criminals," that restricting the third degree would "impair the morale of the police" and that organized crime "renders traditional legal limitations outworn."[35] Not only did this report establish that police brutality and the infliction of mental and physical pain during interrogation was a nationwide concern that continued deep into the twentieth century, but it also demonstrates the Jacksonian rhetoric that so often accompanies torture and its justification in the U.S. Torture was used in the context of and justified by the threats of an aggressor, the necessity for security and exceptional circumstances.

Many will contend, justifiably, that American society has progressed beyond these vulgar practices, especially since the Civil Rights movement of the twentieth century. Aside from wider social issues of police brutality and racial profiling that remain prominent, specific acts of torture have occurred much more recently than one might think. John Conroy tells the story of Andrew Wilson who, after arrest in 1982 for the murder of two police officers, was burned, suffocate and given electric shocks by officers in Area 2 of the Chicago police department. What Wilson did not know "when he filed his complaint was that he was not the first to complain of such treatment."[36] Subsequently 108 men have accused Police Commander Jon Graham Burge of Area 2 of torture, and 13 men were released from death row after it was

[35] Ibid. 1182.

[36] Conoy, John. *Unspeakable Acts: Ordinary People. An Examination of the Practice of Torture in Three Democracies*. 26. Berkley: University of California Press. 2000.

ruled that their convictions rested solely on confessions generated by torture from Burge and his colleagues. In 2015, Mayor of Chicago Rahm Emanuel announced the creation of a $5.5million fund for victims.[37] It is estimated that "between 1972 and 1991 more than 100 people – almost all African-American men – were subjected to horrific abuse by police officers under Burge's command. It is also of interest for subsequent chapters that, although Burge denied prior experience of torture, was a military veteran who "probably learned his torture techniques during his time in the Vietnam War," as techniques such as electroshock torture were common during that war.[38]

The U.S. is seemingly based on moral and humanist values and the "prevention of cruel and unusual punishment" is even entrenched in the Bill of Rights. This evidence, however, establishes the perturbing existence and persistence of torture in U.S. history preceding 1900. Such was the prevalence and importance of these ideologies in early history of U.S. torture that became a meaningful component of U.S. political culture, with ramifications for the use of torture against future foes. Although the context and methods of torture would vary, the use and justification of torture against a perceived threat or enemy persisted and represents a continuity from the U.S.' early domestic history to its foreign relations. Instead of fulfilling the moral superiority suggested by American Nationalism, Americans have often found ways to suspend their "exceptionalism" and carry out horrific acts of torture, acts that were

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[37] Madhami, Aamer. *USA Today*. *Chicago to pay reparations to police torture victims*. April 15th 2015. Online. http://www.usatoday.com/story/news/2015/04/14/chicago-to-pay-reparations-jon-burge-police-torture-victims/25766531/

[38] Cooper, Ryan. The Week. *Coming to America: How torture ended up being used in a Chicago black site*. March 2nd 2015. http://theweek.com/articles/541639/coming-america-torture-ended-being-used-chicago-black-site

justified by ideology and that were engrained and repeated in U.S. foreign relations in centuries to come.

Chapter 2: Torture in U.S. Foreign Relations

To use the aforementioned parlance of political culture, it is evident that in the formative years of U.S. history, the U.S. population and political system became "embedded in a particular pattern of orientations to political action."[1] Such was the strength and influence of the ideological basis for domestic torture that the justification and acceptance of torture became engrained in U.S. political culture and affected attitudes towards and debates regarding U.S. torture overseas. This would prove to have important consequences, as the question of torture would be repeatedly brought about by a vast array of new threats, enemies and encounters.

"The Age of Imperialism"

One of the first examples where the ideologies of racial superiority, American nationalism and Jacksonianism are evident in U.S. action overseas is the "age of imperialism," a term used to describe American foreign policy around the turn of the twentieth century.[2] The case of the Philippines demonstrates the role of American nationalism, racial superiority and Jacksonianism in America's own "age of imperialism." Moreover, while the foreign relations of the U.S. varied at this time, and have since, there are common policies and traits that characterize this era as a whole. As such, U.S. foreign relations in the Philippines give a prime example of the

[1] Almond, Gabriel. *Comparative Political Systems,* 397.

[2] For instance in, Harry Magdoff"s *The Age of Imperialism*. New York: Monthly Review Press, 1969. The term "imperialism" is contentious in relation to American history, Perry Miller describing the American experience as "unique" and "antithetical" to the European examples of imperialism. See: Miller, Perry. *Errand into the Wilderness*. London: Belknap Press. 1956. ix

implementation of "imperialism" in U.S. foreign relations, and the ideological basis of torture during this time.

There are, of course, specific reasons why torture became prevalent in U.S. foreign relations at this time. For instance, most U.S. officers who went abroad around 1900 had fought in wars against Native Americans, and were used to the racial dehumanization and brutality also involved in these contexts. Additionally, the 'Age of Imperialism' ended a period of relative isolationism by the U.S., meaning that white Americans now encountered very different peoples around the world far more than ever before. Also, a relative newcomer to imperialism, the U.S. undoubtedly learned from the examples of European colonizers such as Britain, France and Spain, all of whom also have distinct histories of torture. Finally, the U.S. at this time fought against people who used violence in their own politics and military, encouraging the U.S. use of torture and the notions of racial superiority that many Americans already possessed. These are just a few examples of how torture, and its ideological justification, spilled-over from one era to the next and reflected the specific political contexts. Moreover, it explains the heightened relevance of ideologies such as Jacksonianism and racial superiority in this era.

Authors such as Glenn Anthony May and Paul Kramer have given accounts of conflicts and colonial policies of the U.S. in the Philippines in the early twentieth century that focus, above all, on race. May's *Social Engineering in the Philippines* discusses the social attitudes and implications of broad colonial policies ranging from government and education to "social engineering." May examines "the models Americans used in attempting to rule the Philippines," asserting that "many

Americans took part in the making of colonial policy" in what was "often viewed a successful experiment in social engineering."[3] While presenting a balanced and mixed account of the social implications of American policy, May mentions that it often involved an "extremely brutal" military presence including forces that "regularly tortured citizens to pacify" the enemy.[4] These acts are a greater focus in Paul Kramer's *The Blood of Government,* whose more damning analysis focuses on the "colonial discourse" of America that justified violence as inevitable and of which racial superiority was a primary constituent.[5]

Kramer presents detailed tales and even images of soldiers committing acts of torture, often including the "water cure," deeds that were not just tolerated but also celebrated by the soldiers involved.[6] Kramer also vividly demonstrates the role of racial hierarchy in torture. One might also note the smaller part of Jacksonian rhetoric in the way that the Philippines resistance is framed as a threat, rather than a response, a danger that makes violent pacification necessary and celebrated, demonstrating how Jacksonian rhetoric was used to justify torture abroad, just as it had been at home. Despite the efforts of the U.S. military to "censor outgoing cables," a letter by A.F. Miller of the 32nd Volunteer Infantry Regiment published in the *Omaha World Herald* in May 1900 told of the use of torture, especially the "water cure." "Now this is the way we give them the water cure," he states, "lay them on their backs, a man standing on each hand and each foot, then pour a pail of water in the mouth and nose, and if

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[3] May, Glenn Anthony. *Social Engineering in the Philippines: the aims, execution and impact of U.S Colonial Policy*. Westport, Connecticut: Greenwood Press. 1980. xv.

[4] Ibid. xxiv.

[5] Kramer. *The Blood of Government,* 27.

[6] Ibid. 140.

they don't give up pour in another pail. They swell up like toads. I'll tell you it is a terrible torture."[7]

Despite accounts such as these, as well as the jocular admissions of torture made by Governor-General of the Philippines William Howard Taft, Secretary of War Elihu Root stated in a 1902 report that "charges in the public press of cruelty and oppression exercised by our soldiers towards natives of the Philippines" had been either "unfounded or grossly exaggerated." His report not only emphasized the atrocities committed by Filipinos, but also suggested that some Filipinos had invited or requested torture and that the American campaign had been executed "with scrupulous regard for the rules of civilized warfare, with careful and genuine consideration for the prisoner and the noncombatant, with self-restraint, and with humanity never surpassed, if ever equaled, in any conflict, worthy only of praise, and reflecting credit on the American people."[8]

More about the ideology of torture can be learnt by analyzing the speeches of other leaders and policymakers, especially given May's observation that the racial stereotypes of leaders that described Filipinos as "backwards and inferior" simply "reflected the ethnocentrism and racism that prevailed throughout white America at the turn of the century."[9] As well as the speeches of Taft and Fred Atkinson, to whom May's statements apply, Governor-General William Cameron Forbes declared "The Filipino is very easily led and very superstitious… their idea of independence is

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[7] Kramer, Paul. "The Water Cure: Debating torture and counterinsurgency—a century ago." *The New Yorker*. February 25th 2008. Online. http://www.newyorker.com/magazine/2008/02/25/the-water-cure

[8] Ibid.

[9] May. *Social Engineering in the Philippines*, 179.

sometimes very humorous." Expanding on this, he asserts that, left to themselves "the islands would be one sea of blood from end to end."[10] Similarly, Congressmen Harry E. Hull declared in 1901 that "Filipinos are absolutely unfit for self-government. They have no conception of what government means" and that "most are peculiar."[11] Not only did leaders and officials at the time hold these discriminatory views and ideologies but, John T. Parry notes, "soldiers on the ground tended to agree with this characterization of their enemy." Parry explains that, at best, natives were seen as "wayward and violent children who needed to be coerced into behaving properly," and at worst an "unscrupulous enemy that had forfeited the right to civilized tactics," thus deserving of torture.[12] Kramer asserts that imperial soldiers "came to understand indigenous combatants and noncombatants in racial terms" and that "colonial violence was justified along racial lines."[13] As such, "torture, often in the form of the water cure" was amongst "common tactics" used to pacify local communities.[14]

These acts quite clearly demonstrate the importance of racial superiority, as well as the innocence and divine right to govern that characterize American nationalism, in the enactment and justification of colonial violence and torture, as the divine, patriarchal governance of the U.S. extended overseas. Moreover, consistent with the use of torture in the domestic history of the U.S., torture was framed in

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[10] *W.Cameron Forbes to Edward Forbes*. March 25th, 1905. Wiliiam Cameron Forbes Papers, 1900-1946. MS Am 1366. 2.ffra

[11] *The New York Times*. "Mr. Hull on the Filipinos: Iowa Congressman Says They Are Not Fit for Self Government – Spooner Bill a Mistake." August 19th 1901. Online. http://query.nytimes.com/mem/archive-free/pdf?res=9F04E4DF1E39EF32A2575AC2A96E9C946097D6CF

[12] Parry, John T. "Torture Nation, Torture Law." *The Georgetown Law Journal*. Vol.97. 1005.

[13] Kramer. *The Blood of Government,* 38.

[14] Parry. *Torture Nation, Torture Law,* 1006.

Jacksonian terms of defense from or superiority over an exceptional enemy and in the context of their aggression. Albert J Beveridge, in his "March of the Flag Address" to the Republican Party in 1898 declared that "we govern the Indians without their consent, we govern our territories without their consent, we govern our children without their consent… would not the people of the Philippines prefer the just, humane, civilizing government of this Republic?"[15] These remarkable comments, once again, tie together racial superiority and the entitlement of American nationalism in the age of imperialism, relating the justification of imperial policy and oppression to the religious and nationalistic assumptions in which torture has its roots.

Aside from the Philippines, there are also many examples of torture in Latin American during the "age of imperialism," typically between 1910 and 1925. Alan McPherson vividly details the place of torture in the U.S. occupation in Latin America, which McPherson characterizes as "brutal, acquisitive, disrespectful, and racist."[16] In Haiti, images depict a prisoner with "two wrists cut off and an amputated leg prior to execution," which was "the work of an American officer."[17] In Nicaragua McPherson narrates "all sorts of inhuman beating and unmentionable tortures," including when marines "severely beat a suspect and electrocuted him" before they then "shot the man while his son looked on."[18] Additionally, torture in Nicaragua featured the "electric chair" and the torture of Benito Vargas, who was "choked…

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[15] Albert J Beveridge, March of the Flag. *Address to an Indiana Republican Meeting, Indianapolis, Indiana*. 16th Sept 1898. Online http://nationalhumanitiescenter.org/pds/gilded/empire/text5/beveridge.pdf

[16] McPherson, Alan. *The Invaded: How Latin Americans and Their Allies Fought and Ended U.S. Occupations*. 2014. New York: Oxford University Press.

[17] Ibid. 92.

[18] Ibid. 95.

until he spat blood," "given the water cure" and whose "testicles were grasped and twisted until he nearly fainted from the pain."[19] Finally, in the Dominican Republic, the torture of Leocadio Báez attracted much attention after "U.S. and Dominican forces seared him so severely with a red hot machete that Báez could never walk again" – in this instance they "tortured sixteen others but also shot them; only Báez survived."[20] As with torture in the Philippines, and foreshadowing the American response to torture in decades and centuries to come, U.S. Captain Charles Buckalew, who ordered and oversaw Báez's torture, was "exonerated of all offenses" and praised for "spreading terror in the hearts of lawbreakers, high and low, rich and poor."[21] Furthermore, the President, the Secretary of the Navy and the Secretary of State all refused to meet with Dominican Tulio Cestero who raised grievances of torture, and an inquiry into abuses in 1920 judged that all instances of torture "were isolated acts of individuals" and the report made sure to "justify torture against savages."[22]

While U.S. leaders clearly justified imperial domination, and, by inference or explicit mention, violent torture, Theodore Roosevelt's speech, "The Expansion of the White Races," embodied the principles of "the age of imperialism" and makes this association even clearer. This address was made in 1909 at an African Methodist Church in Washington, D.C., and set out to explain that "the expansion of white peoples… has been fraught with lasting benefit to most of the peoples already dwelling in the lands." While this is a very prejudiced account of "the white man's

[19] Ibid. 95.
[20] Ibid. 96
[21] Ibid. 98.
[22] Ibid. 176.

burden," the speech is also clearly set out to justify colonial abuses. Within the opening sentences Roosevelt acknowledged there were "necessary reservations" that "no movement lasting for four centuries" could have avoided and that were limited to "certain places at certain times" – or a few bad apples. Roosevelt explained that in many cases these people were "mere savages, whose type of life was so primitive as to be absolutely incompatible with the existence of civilization." Moreover, "the ideas of civilization and Christianity" were "brought to peoples who dwell in the darker corners of the earth."[23] The explanation of their death and torture as inevitable, because "their grade of culture is so low that nothing can be done with them," showed the brutal side of both racial dehumanization and the responsibilities of governance and civilization which characterized American nationalism, now on an international stage. Moreover, Roosevelt's rhetoric reflects the perceptions of a blameless America that is integral to American nationalism. Regarding the Philippines in particular, Roosevelt declared, "when history is written, from the standpoint of acclaiming international justice, the chapter will tell with the heartiest praise what our people have done in the Philippines."[24]

Roosevelt's testimony of "the wise and proper treatment of weaker by stronger races" is a remarkable summary of an imperial experience that was at best diverse in its success and morality. His optimism is reflective of the entire paradigm of the "age of imperialism," Roosevelt declaring "England does not draw a penny from India for English purposes." What this speech shows, alongside the many accounts of U.S.

[23] Theodore Roosevelt. *The Expansion of the White Races: Address at the celebration of the African Diamond Jubilee of the Methodist Episcopal Church in Washington, D.C*. January 18, 1909. Online. http://www.theodore-roosevelt.com/images/research/speeches/trwhiteraces.pdf

[24] Ibid.

torture in the Philippines, the Dominican Republic, Haiti and Nicaragua, is the prevalence of American nationalism, Jacksonianism and racial superiority, in the simultaneous "liberation" and torture of other races and nations.

World War Two and Torture of the Japanese

World War Two provided other examples of torture, which was perpetrated by countries and armies on both sides of the conflict in a number of continents. Evidently, there were clear examples of torture in Nazi Germany, as well as torture of Germans by allied forces including the British. Key examples of torture in U.S. foreign relations, however, were mostly provided in the U.S. war with Japan. John Dower's *War Without Mercy* provides a uniquely valuable account for this thesis. Dower focuses on "war hates" that characterized the interactions between Japanese and American forces, these acts being perpetrated by both sides.[25] Dower's primary point is that these "war hates" were driven by racial stereotypes and the dehumanization that, as Roberts explained, made it acceptable to desecrate the body of the enemy and disregard the laws of civilized warfare. Dower reported stories of American soldiers "roasting their captives" and, in response, Japanese soldiers "cutting out the hearts" of their victims.[26] Not only this, but these officers would "receive high praise for massacres of the Japanese."[27] Patrick O'Donnell tells of a well-known sign hung in the office of Admiral William Halsey during World War Two that read: "Kill Japs. Kill More Japs. You will help kill the yellow bastards if you

[25] Dower. *War Without Mercy*, ix.
[26] Ibid. 60.
[27] Ibid. 66.

do your job well."[28] This emphasizes the concomitance of racism and hatred, in which torture is often propagated. Such was the impact of this torture, many Japanese soldiers committed suicide when faced with defeat on the battlefield because they were told they faced "death or torture" if captured by U.S. troops, although stories of torture may have been exaggerated by Japanese commanders in order to stir up further hatred of the enemy.[29]

Dower portrays how race shaped the war but there is, however, more that one can deduce from the mechanisms and ideologies behind torture in this instance. The torturous acts of both Japanese and American soldiers are an illustration of how Jacksonianism and racial superiority can intersect to promulgate acts of torture. At the broad historiographical level, the "burning passions and unbridled violence"[30] demonstrated by American politicians, soldiers and the public at large were initially aggravated not by broad geopolitical shifts or alliances, but by the Pearl Harbor attacks. This is a demonstration of Jacksonian sentiment in American policy and emotion and shows how, to use Mead's metaphor, America can be a rattlesnake that, once stepped on, attacks with unrelenting vigor that is not rational or proportional.[31] Moreover, Dower explains how the stories of torture on each side perpetuated hatred and the attitude of "kill or be killed," highlighted by a general exclaiming "you can't be sporting in war" when relaying the tale of how soldiers "turned lifeboats packed

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[28] O"Donnell, Patrick K. *Into the Rising Sun: In Their Own Words, World War II"s Pacific Veteran*. 2002. New York: Free Press.

[29] Ibid. 69.

[30] Dower. *War Without Mercy*, x.

[31] Mead. Special Providence, 243.

with Jap survivors into bloody sieves."[32] This not only shows the self-perpetuating cycle of atrocities and myths on both sides, but also the psychological justification of violence that was based not only on racial hatred but also on extrajudicial retaliation and Old Testament zeal. Embodying the coexistence of Jacksonian motivation and racial hatred, General Thomas Blamey declared, "we are not dealing with humans as we know them. We are dealing with something primitive… (we) regard them as vermin."[33]

The virility of these dogmas is reflected in many sources, including the wartime journals of Charles A. Lindbergh, a primary account of the war by a man who displayed a distinct opposition to it and remarkable self-awareness during service.[34] He laments the manner of generals and soldiers, who "have no respect for death, the courage of an enemy soldier or many of the ordinary decencies of life. They think nothing whatever of robbing the body of a dead Jap and calling him a son of a bitch while they do so."[35] He recounts how soldiers "mutilated prisoners" that were "slit from ear to ear" and "kicked in the teeth" both before and after their death, showing this was not the cost of war, but remarkable and vindictive torture.[36] The way in which soldiers gave the Japanese "less respect than they would give to an animal," and the way in which these acts were often encouraged, shows that the degradation of the

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[32] Ibid, 76.

[33] Ibid, 71

[34] Lindbergh, a famous aviator and engineer, gave a controversial speech in Des Moines in September 1941 accusing Congress of "dictatorial procedures" and criticizing the role of "news charged propaganda" in driving the nation towards war. Available from. https://www.youtube.com/watch?v=54ozdotStW8

[35] Charles. A. Lindbergh. *The Wartime Diaries of Charles A. Lindbergh*. Harcourt Brace Jovanovich, Inc.; 1st edition. June 1970. 859.

[36] Ibid, 903.

enemy through Jacksonian and racial rhetoric can motivate torture. Lindbergh reflects that this was so influential that "what the German has done to the Jew in Europe, we are doing to the Jap in the Pacific."[37]

Jeffrey Rogers Hummel notes that "the only factor which kept violence against Japanese-Americans at such a low ebb was their forcible removal" into camps.[38] The anger and hatred of the Japanese at this time was so engrained that *LIFE* magazine, just fifteen days after the Pearl Harbor attacks, published diagrams of "How to Tell Japs from the Chinese" so that people could appropriately direct their hatred.[39] This discrimination, as well as the use of internment camps, exemplifies how the U.S. "often tosses its founding values out the window" and that "The Bill of Rights is trampled upon regularly when America goes to war."[40] Although this was an extreme and quite unique episode in the history of the U.S., the demonization of an enemy and its association with torture is reminiscent of previous episodes in U.S. history. These attitudes and their context demonstrate the extreme transformation of a nation built on human rights and the rule of law into violence and hatred, driven by both racial superiority and dogmatic Jacksonianism, the need to retaliate and conquer aggressors.

The Cold War Paradigm of Torture

From the cooling embers of World War Two emerged the Cold War, a

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[37] Ibid, 881.

[38] Hummel, Jeffrey Rogers. "Not Just Japanese Americans: The Untold Story of U.S. Repression During 'The Good War.'" *The Journal of Historical Review*. Fall 1986 Vol. 7(3): 296

[39] "How to Tell Japs from the Chinese." *LIFE Magazine*. December 22nd, 1941. 81. Online. http://books.google.com/books?id=Y04EAAAAMBAJ&lpg=PA11&dq=life+magazine+back+issues+Dec+22+1941&pg=PA81&hl=en#v=onepage&q&f=false

[40] Weigant, Chris. "The Feinstein Torture Report." *The Huffington Post*. December 10th 2014. Online. http://www.huffingtonpost.com/chris-weigant/the-feinstein-torture-rep_b_6305556.html

watershed moment for torture and its place in U.S. foreign relations, where it truly became a policy debate and, although clandestine, a policy instrument for the first time. This is not to say that torture was the entire consensus of the administration nor the nation. Instead, torture was a matter of policy in that it was justified and encouraged in official documents, via the CIA and as a direct result translated into the actions of those representing the U.S. overseas. While torture had been widespread, even encouraged and accepted with impunity in instances including torture in the Philippines and Japan, there is little evidence that instruction to torture was centralized, formalized or common amongst government or military officials in these instances. This changed in the Cold War.

McCoy and Otterman have provided compelling exposés of torture during this period and beyond, concluding that the modern paradigm of torture in America began with the creation of the CIA in 1947. While these exposés rarely focus on torture's ideological roots, they explain that CIA research into methods of physical and psychological torture were inspired by and initiated because of the fear of "Soviet mind control" and Soviet interrogation techniques.[41] The 1954 "Report on the Covert Activities of the Central Intelligence Agency," often named "The Doolittle Report" after its author, Lieutenant General James H. Doolittle, reveals this fear. Doolittle writes, "It is now clear that we are facing an implacable enemy whose avowed objective is world domination by whatever means and at whatever cost. There are no rules in such a game." This moment encapsulates Jacksonianism in American foreign policy, where the perception of threat and fear meant "American concepts of 'fair

[41] McCoy, *A Question of Torture*, 22.

play' must be considered."[42]

The abuses that were to follow across the globe were set in motion by documents such as these and the verdict that "every known technique should be intensively applied and new ones should be developed… to subvert, sabotage and destroy our enemies by more clever means than those used against us."[43] Moreover, this sentiment was evident deep in American society, evidenced by McCarthyism and the "Red Scare" that was rampant in America at the time of this document. "In the competitive atmosphere of the Cold War," John Parry explains, "CIA officials funded research into psychologically coercive interrogation tactics – not to replace physical coercion but to supplement it.… The results of that research were not only influential, they also became an international commodity, part of the global market in torture methods."[44]

McCoy demonstrates how the abandonment of rules and the CIA's psychological research developed a paradigm of psychological or third-party "no touch torture," the legacy of which can be traced throughout Asia, Latin America and even the shocking pictures of torture in Abu Ghraib in 2004.[45] Documents from the Cold War era, such as the "Kubark Counterintelligence Interrogation" manual of July 1963, demonstrate the codification of torture and the continuation of fear, threat and these ideologies in its justification. The Kubark Manual of Interrogation referenced suspicion of Soviet "brainwashing," any evidence of which had been limited and

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[42] United States. *Report on the Covert Activities of the Central Intelligence Agency*. 26th July 1954. Online. http://cryptome.org/cia-doolittle.pdf

[43] Ibid.

[44] Parry. *Torture Nation. Torture Law,* 1012.

[45] McCoy. *A Question of Torture*, 56.

decades old. Still, it highlighted Soviet methods as "of sufficient importance and relevance that it is no longer possible to discuss interrogation significantly without reference to psychological research."[46] In response, the Kubark Manual of Interrogation addressed several coercive tactics including "deprivation of sensory stimuli," "threats and fear," "heightened suggestibility and hypnosis," "narcosis" and "pain," each with the aim of disorientating and causing "regression" of a suspect, to elicit admissions or confessions.[47] In a specific discussion on the efficacy of pain, the manual noted that the detainee's "resistance is likelier to be sapped by pain which he seems to inflict upon himself," despite noting that "intense pain is quite likely to produce false confessions."[48]

Despite often attempting to remain uncontroversial by avoiding mentions of physical or psychological harm, the interrogations guided by "Project X" often resulted in harmful torture. Perhaps the pinnacle of this paradigm of torture as policy was the Phoenix Program, the mission to "pacify" Viet Cong suspects in Vietnam. Zoe Schramm-Evans details in her travel journals the museum pictures of "prisoners… roped together by their necks" being dragged by CIA officers past ghastly scenes of dead Vietnamese civilians.[49] McCoy reports that this torture extended to over 14,000 suspects in 1970 alone, whereas Parry reports that torture was common amongst the armed forces, as well as the CIA that "trained over 85,000 South Vietnamese police officers in "stringent wartime measures" including

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[46] United States. Central Intelligence Agency. *Kubark Counter Intelligence Interrogation*. July 1963. Online. http://www.americantorture.com/documents/cold_war/04.pdf. 3.

[47] Ibid, ii.

[48] Ibid, 94.

[49] Schramm-Evans. *A Phoenix Rising,* 63.

interrogation tactics."[50] This aligns with Mark Moyar's analysis, that "most of the torture and killing was carried out by the South Vietnamese officials who had been trained by the CIA." Moyar stresses however, that "almost all (CIA) advisors" witnessed the violent interrogation of suspected Viet Cong, including "beating, electric shock and water torture."[51]

These shocking statistics continued throughout the Cold War, as torture extended into Latin America with torture by U.S trained officials in countries such as Brazil and Honduras; an estimated 35,000 people were tortured and 3275 killed in Honduras alone.[52] Harbury reports that "enormous levels of U.S. funding were poured into countries in order to halt the spread of any Sandinista-like governments" and that, although CIA involvement varied, agents "not only kept known torturers on agency payroll, but were often physically present in torture cells as well."[53] Not only then did the U.S. government and CIA have a large part to play in war crimes that included "200,000 civilian murders or disappearances" in Guatemala alone, but were also involved in countless instances of torturous acts including "stripping, beatings, stress positions and electric shocks," which Harbury stresses were "developed in Phoenix

[50] McCoy, *A Question of Torture,* 67 and Parry, *Torture Nation. Torture Law,* 1012.

[51] Moyar. Mark. *Phoenix and the Birds of Prey: The CIA's Secret Campaign to Destroy the Viet Cong*. 1997. Annapolis: Naval Institute Press. 88.

[52] McCoy, *A Question of Torture,* 67.

[53] The rise of the Sandinista National Liberation Front (FSLN) in 1978-9 became a major concern for the U.S. in its global fight against communism. As such, in 1984 the U.S. authorized the CIA to spend up to $24million dollars to fund "Contras", a name given to various right-wing rebel groups backed by the U.S. Similar support was offered to other nations, such as Brazil and Honduras, to prevent the spread of communism. For further details see: Office of the Inspector General, United States Department of Justice. *Appendix A: Background on United States Funding of the Contras*. Online. https://oig.justice.gov/special/9712/appa.htm

and similar intelligence programs" guided by the Kubark Manual of Interrogation."[54]

The Kubark Manual of Interrogation was also the basis for five further U.S. Army or CIA interrogation manuals that were declassified in 1997. These have subsequently been labeled "the torture manuals" by many media sources, and "were provided by the CIA to at least seven Latin American countries in the 1980s."[55] Florencio Caballero and José Barrera, former member of Battalion 316 in Honduras in the early 1980s, received direction from CIA officials guided by the Kubark Manual of Interrogation. Caballero notes that "instructors taught him to discover what his prisoners loved and what they hated," adding that if the prisoner hated cockroaches, they might be more cooperative if there were cockroaches running around the room." Barrera, as well as recalling beatings, sleep deprivation and stress positions, recalls that "The first thing we would say is that we know your mother, your younger brother. And better you cooperate, because if you don't, we're going to bring them in and rape them and torture them and kill them."[56] The colossal distribution of these manuals was called Project X, a practice that, by 1971, extended to over one million police officers in forty-seven nations, particularly concentrated in South Asia and Latin America.[57] Although the true extent of torture that was perpetrated or instructed by the U.S. in Latin America will probably never be known, it is clear that the Cold War and the

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[54] Harbury, Jennifer K. *Truth Torture and the American Way*. 2005. Boston: Beacon Press. xx. 101, 104.

[55] Foster, Peter. *"Torture report: CIA interrogations chief was involved in Latin American torture camps." The Telegraph*. 11th December 2014. Online. http://www.telegraph.co.uk/news/worldnews/northamerica/usa/11286727/Torture-report-CIA-interrogations-chief-was-involved-in-Latin-American-torture-camps.html

[56] Cohn, Gary, Thompson, Ginger and Matthews, Mark. The Baltimore Sun. *Torture was taught by CIA; Declassified manual details the methods used in Honduras; Agency denials refuted*. Monday 27 January 1997. Online. http://www.hartford-hwp.com/archives/40/055.html

[57] McCoy. *A Question of Torture*, 78.

Jacksonian response to global communism contributed to the involvement of the U.S., primarily via the CIA, in torture on a considerable scale.

As torture became a widespread and more formalized a matter of U.S policy for the first time, the scrutiny it faced also became increasingly formalized, with a number of Congressional investigations taking hold from the 1970s onwards. Under investigation, William Colby initially professed that Phoenix had killed "6,187 members" of the Viet Cong and that it was "a program for the assassination of leaders" in the name of national security, which demonstrated the extreme measures that Jacksonian concepts of defense, justice and national security serve to justify. Colby's admission days later in this House Subcommittee investigation that "Phoenix had killed 20,578 Viet Cong suspects since 1968" showed his own, and perhaps America's, growing realization of the injustices and atrocities that were being committed.[58]

The "1976 Select Committee to Study Governmental Operations with respect to Intelligence Activities" declared that we must "place our trust in laws and not solely in men."[59] However, the ideological motivations of torture, since the days of Jefferson and Henry Smith, had dictated that this would not be the case. Instead, the Jacksonian influence on foreign policy dictates that the rule of law can, and must, be suspended in times of crisis or danger. Finally, the conclusions of the "Church Committee" "confirmed substantial wrongdoing" and "demonstrated that intelligence

[58] United States. "Operations Subcommittee of Operations in the U.S House of Representatives." 1970. Cited in McCoy, *A Question of torture*.

[59] United States. Congress. Senate. Committee to Study Governmental Operations with respect to Intelligence Activities. *Final Report: Intelligence Activities and the Rights of Americans*. Washington: GPO. 1976. III.

activities have not generally been governed and controlled in accord with the fundamental principles of our constitutional system of government.[60] It is remarkable that investigators found surprise in these conclusions, given the ideological storm that declared there were "no rules" and that "fair play" should be set-aside in the Cold War just as they had been in previous conflicts and crises with previous enemies.

While the Cold War is routinely recognized as the ideological battle between communism and capitalism, it is evident that there were other ideological forces at play. For Adam Quinn, America's Jacksonian response epitomized the "darker side of nationalism" where grave acts were justified in the name of national security, a sentiment that spread beyond "a few bad apples" to the masses of American society.[61] Moreover, the propagation of torture fits William Pfaff's description of how American nationalism "hardened to destroy obstacles to the American vision of the future" and was part of the larger mission of American nationalism as the U.S. showed others "how to use their freedom."[62] One might compare this narrative to Roosevelt's perspective on "the expansion of the white races" and the ideas of bringing civilization and progress to the "darker parts" of the world. On this note, while the rhetoric may have changed, the torture of those in Latin America and Asia, rather than European nations that were seemingly most at risk of Soviet influence, exposes the continuation of racial superiority and American nationalism and their influence in the propagation of torture. What is evident is that there were clear ideological factors that explain how America so quickly transformed from a pioneer of the Geneva

[60] Ibid, v.

[61] Quinn. *U.S Foreign Policy in context,* 83.

[62] Pfaff. *The Irony of Manifest Destiny*. 43 and Quinn, *U.S Foreign Policy in Context,* 84.

Conventions and the Universal Declaration of Human Rights to a nation with "no rules" that engaged in behaviors that, in the words of David Boren, former Chairman of the U.S. Senate Select Committee on Intelligence were "completely contrary to the principles and policies of the United States."[63]

Congressional investigations and committees largely condemned the use of and involvement in torture, especially in Latin America; they also put in place measures to prevent the U.S. from supporting, funding or using torture in its foreign relations in the future. Torture, however, was not consigned to a vestige of twentieth century history or a relic of past generations, instead returning to widespread public attention in 2003 with the Abu Ghraib scandal. Not only were the methods of torture brutal and shocking, but also the acts and the rhetoric that surrounded torture during the "War on Terror" were strikingly similar to that which surrounded U.S. torture in previous centuries.

[63] Figures such as Clara Barton and Eleanor Roosevelt were pioneers in campaigning for and creating the Geneva Conventions and Universal Declaration on Human Rights respectively, both of which the United States has since ratified. McCoy. *A Question of Torture,* 233.

Chapter 3: Torture & The "War on Terror"

No account of U.S. torture is complete without reference to its most recent manifestation, the "War on Terror." The use of torture in the "War on Terror" has reignited public, academic and political debate regarding torture, as well as inspired authors such as McCoy, Otterman and David Forsythe. These authors unanimously conclude that torture, as revealed at Abu Ghraib, was not a new element of U.S. foreign policy or the work of "a few bad apples," but instead that torturers were "acting out a script written over fifty years ago during the depths of the Cold War."[1] Moreover, despite modern rhetoric and norms regarding human rights, Karen Greenberg notes that "the similarities across the ages are striking… any American can open his newspaper and find mention of torture" where "very little innovation has accompanied the newer methods of torture" including hooding, beating and water torture, which were all used as early as the fifteenth century.[2] This chapter will demonstrate that it is not just the methods of torture, but also the ideologies used to justify or encourage them, that reflect a remarkable continuity with previous centuries of U.S. history.

Evidence of Torture in the "War on Terror"

Torture in the "War on Terror" was first brought to public attention at the time of the aforementioned Abu Ghraib scandal. This disgrace proved to be the tip of the

[1] McCoy. *A Question of Torture,* 6.

[2] Greenberg, Karen. *The Torture Debate in America*. 2005. Cambridge: Cambridge University Press

iceberg when, in April 2014, the U.S. Senate voted to publish the details of the CIA's "enhanced interrogation" program. This provided a rare level of comprehensive insight into torture and interrogation practices; such activities are usually protected from public scrutiny and accountability due to their sensitive, clandestine and sometimes shocking nature. The result was the release of a 525 page "torture report" on December 9 2014.[3] The details were deplorable and alarming, with treatment frequently including waterboarding, slapping, stress positions and sleep deprivation.[4] Threats of death and abuse were also common, including "threats to harm the children of detainees, threats to sexually abuse the mother of a detainee" and threats to "cut a detainees mother's throat."[5]

These methods, however, were just part of the more routine torture and abuse. Some of the more gruesome details of the report included detainees forced to "stand on broken legs," the use of "mock burials," rectal feeding and an instance were one suspect was detained in a room so cold that he "froze to death."[6] Other details notable for the shock they caused amongst the media included one interrogator playing "Russian roulette" with a detainee and confinement in "coffin sized boxes," including the treatment of Abu Zubayadah, who spent a total of 266 hours in the "large, coffin

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[3] *US News*. "Here is the CIA Torture Report." December 9th 2014. Online. http://www.usnews.com/news/articles/2014/12/09/here-is-the-cia-torture-report

[4] *BBC News*. "Report on CIA details 'brutal' post 9/11 Interrogations." December 9th 2014. Online. http://www.bbc.com/news/world-us-canada-30401100

[5] Senate Select Committee on Intelligence. *Committee Study of the Central Intellegence Agency"s Detention and Interrogation Program*. December 9th 2014. 4.

[6] Ibid. 32. Ackerman, Spencer. The Guardian. Shocking cases in CIA report reveal an American torture program in disarray." *The Guardian*. December 9th 2014. Online. http://www.theguardian.com/us-news/2014/dec/09/cia-report-torture-program-disarray.

size, confinement box" and "29 hours in a small confinement box."[7] The report as a whole revealed a truly global program of interrogation and torture. Page 16 reported that "the CIA's Detention and Interrogation Program cost well over $300 million in non-personnel costs" including funding to build and maintain detention facilities, payments to foreign governments to "clandestinely host CIA detention sites, or to increase support for existing sites" and "millions of dollars in cash payments to foreign government officials."[8] These payments underpinned a network of "blacksites" where nations all around the world hosted CIA prisons, enabled CIA renditions in "proxy" CIA detention centers or facilitated the enhanced interrogation program by providing information, transit or clandestine support.

One final remarkable note from the report itself is that there was scarce mention of any actionable or unique evidence gathered via enhanced interrogation, the report even admitted that "26 detainees were wrongfully held" and that "fabrications led the CIA to capture and detain suspected terrorists who were later found to be innocent."[9] In one case, the CIA concluded that waterboarding Khalid Sheik Mohammed was causing him to become increasingly unresponsive. Despite this, the CIA continued this technique for ten more days and saw his treatment "evolving into a series of near drownings."[10] Consequently, the report not only detailed a global, clandestine program of enhanced interrogation and torture, but also alluded to the CIA's persistence and brutality, despite the ineffectual nature of their techniques.

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[7] Senate Select Committee on Intelligence. *Committee Study of the CIA…"* 424, 42.

[8] Ibid, 16.

[9] Ibid, 485.

[10] Ibid, 88.

Legal Maneuvers & The Justification of Torture

The "War on Terror" is also the most recent manifestation of the ideological basis for torture that has been pervasive throughout U.S. history. This is perhaps most evident in the way that those at the very highest level of government discussed and justified torture, where, perhaps for the first time in U.S. history, torture in some instances was effectively and explicitly decriminalized. This legalization of torture was the result, in particular, of consultation between President George Bush, the Department of Defense and lawyers in the Office of Legal Counsel (OLC). Legal exculpation was provided and documented in a series of memoranda that addressed a number of existing laws, conventions and legal principles including the U.S.' own constitution, the Geneva Convention, the Convention Against Torture (CAT) and even "possible Habeas jurisdiction."[11] In these memoranda the OLC used a plethora of arguments to reinterpret these laws and legal principles in order to legalize torture in the "War on Terror."

One of the most common and important arguments was revealed in a memorandum written by John Yoo to President Bush, which stated, "the Fifth and Eighth Amendments (of the U.S. Constitution) do not extend to alien enemy combatants held abroad." "Moreover," Yoo added, "we conclude that different canons of construction indicate that generally applicable criminal laws do not apply to the

[11] Philbin, Patrick F and Yoo, John C. *Memorandum for William J. Haynes II, General Counsel. Department of Defense. Possible Habeas Jurisdiction over Aliens Held in Guantanamo Bay, Cuba.* December 28th 2001. http://texscience.org/reform/torture/philbin-yoo-habeas-28dec01.pdf

military interrogation of alien unlawful combatants held abroad."[12] This argument was used to legalize and command the possible torture of suspected terrorists or "combatants" in the "War on Terror," specifically excusing the U.S. from the remit of the constitution that outlaws "cruel and unusual" punishment, as well as the federal anti-torture statute (Title 18, Part 1, Chapter 113C 18 U.S. Code § 2340) that makes the use of, and conspiracy to, torture illegal and punishable.[13]

The second key argument used to justify and enact the torture was to define Taliban detainees and other suspected terrorists as "unlawful combatants" that, "therefore, do not qualify as prisoners of war."[14] The OLC, as well as the General Counsel of the Department of Defense, not only used the status of the combatants themselves to justify their torture, but also claimed that "Afghanistan's status as a failed State is sufficient ground alone for the President to suspend Geneva III, and thus to deprive members of the Taliban militia of prisoner of war status."[15]

A third line of reasoning used to excuse and legalize the use of torture by the U.S. in the "War on Terror" comprised of simple geographic arguments. Patrick Philbin and John Yoo concluded that "GBC (Guantánamo Bay, Cuba)" is "outside of

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[12] - Yoo, John. *Memorandum for William J. Haynes IT, General Counsel of the Department of Defense Re: Military Interrogation of Alien Unlawful Combatants Held Outside the United States"* March 14th 2003. 81.

[13] Cornell University Law School. *18 U.S. Code Chapter 113C- Torture*. Legal Information Institute. Online. https://www.law.cornell.edu/uscode/text/18/part-I/chapter-113C

[14] George W. Bush. *Memorandum for: The Vice President, The Secretary of State, The Secretary of Defense, The Attorney General etc… Humane treatment of Taliban and Al Qaeda Detainees*. Online. http://www.pegc.us/archive/White_House/bush_memo_20020207_ed.pdf. 3.

[15] Bybee, Jay S. *Memorandum for Alberto R Gonzales, Counsel to the President and William J. Haynes II, General Counsel of the Department of Defense. Re: Application of Treaties and Laws to al Qaeda and Taliban Detainees*. January 22nd 2002. Online. https://www.justice.gov/sites/default/files/olc/legacy/2009/08/24/memo-laws-taliban-detainees.pdf

the territorial jurisdiction of any court of the United States."[16] Moreover, regarding detainees, "their offense, their capture, their trial and their punishment were all beyond the territorial jurisdiction of any court of the United States." This argument was used specifically to exonerate the use of torture in interrogations at Guantánamo Bay and place it outside of "possible habeas jurisdiction," but the memorandum also extends this logic to U.S. bases abroad, with clear implications for the use of torture in CIA prisons and "blacksites" overseas. Philbin and Yoo note that this is a highly contentious legal perspective, noting that "a detainee could make non-frivolous argument that jurisdiction does exist over aliens detained at GBC."[17] This, however, did not prevent the Department of Defense from approving their conclusions and sanctioning torture at Guantánamo Bay and around the world.

The fourth major argument of OLC lawyers noted that the President as Commander in Chief and the United States could quickly discard the rule of law. "At the outset," they state, "it is important to emphasize that the President can suspend or terminate any treaty or provision of a treaty." In addition, "any presidential decision to order interrogation methods that are inconsistent with CAT would amount to a suspension or termination of those treaty provisions" and "the Convention is not self-executing and therefore places no legal obligations" on the executive branch of government.[18]

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[16] Philbin, Patrick F and Yoo, John C. *Memorandum for William J. Haynes II, General Counsel, Department of Defense. Possible Habeas Jurisdiction over Aliens Held in Guantánamo Bay, Cuba*. December 28th 2001. http://texscience.org/reform/torture/philbin-yoo-habeas-28dec01.pdf

[17] Ibid.

[18] Yoo, John. *Memorandum for William J. Haynes IT, General Counsel of the Department of Defense Re: Military Interrogation of Alien Unlawful Combatants Held Outside the United States*. March 14th 2003. 47.

This statement was underpinned by the Senate's decision that "the United States considers itself bound by the obligation under Article 16 to prevent 'cruel, inhuman or degrading treatment or punishment,' only insofar as the term 'cruel, inhuman or degrading treatment or punishment' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States."[19] This allowed the U.S. further flexibility and autonomy, demonstrating not only the limitations of international law in U.S. foreign policy-making but also the tendency of the U.S. towards exceptional and extrajudicial policy.

The final primary line of argument, the content of which was the subject of much indignation upon the release of the memoranda, was the redefinition of torture itself. In particular, the OLC established that, in order to constitute torture, acts "must be of an extreme nature" and that "physical pain amounting to torture must be equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function or even death."[20] Additionally, the OLC noted that torture must be "severe," "prolonged," "cruel" and "degrading," language that was extreme and also vague enough to allow officials and politicians to place acts such as "wall-slamming and waterboarding" outside of their definition of torture.[21]

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[19] United Nations Committee Against Torture. *Consideration of Reports Submitted By States Parties Under Article 19 of the Convention: United States of America*. February 9th 2000. Online. http://www.state.gov/documents/organization/100296.pdf

[20] U.S. Department of Justice. *Memorandum for Alberto R. Gonzales, Counsel to the President. Re: Standards of Conduct for Interrogation under 18 U.S. C. §§ 2340-2340*. August 1st 2002. Online. Online. http://www.justice.gov/sites/default/files/olc/legacy/2010/08/05/memo-gonzales-aug2002.pdf. 1.

[21] Cole, David. *The Torture Memos: Rationalizing the Unthinkable*. 2009. New York: The New Press. 7.

The congruence and culmination of these memoranda and the legal arguments they profess was captured in President Bush's "Executive Order 13340 of July 20th, 2007." This executive order gave the President's explicit backing to the "Program of Detention and Interrogation Operated by the Central Intelligence Agency" and repeated the statements that "unlawful enemy combatants are not entitled to the protections that the Third Geneva Convention provides to prisoners of war" and reinforced "the authority of the President to interpret the meaning and application of the Geneva Conventions."[22]

The vast majority of the reaction from academics, media sources and politicians since the release of the memoranda has been characterized by indignation and disapproval, culminating in President Barack Obama's repudiation of President Bush's executive order that accompanied his direction that "no government agency may rely on any of the OLC opinions on that topic between 2001 and 2009."[23] There are, however, those that support the use and justification of torture in the "War on Terror." Lee Casey and David Rivkin, for instance, assert that the U.S. should not be bound to behave "as if it is fighting another sovereign state… or as if it is faced by a particularly violent crime wave."[24] Casey and Rivkin argue that because the enemy in

[22] Bush, George W. *Executive Order 13440 of July 20, 2007*. July 20th 2007. Online. http://fas.org/irp/offdocs/eo/eo-13440.htm

[23] Debate however, continues, about the extent of torture that has continued under the President Barack Obama administration. Obama, Barack. *USA Today*. *Executive Order Interrogation*. January 22nd 2009. Online. http://usatoday30.usatoday.com/news/washington/2009-01-22-execorder-interrogation_N.htm

[24] Casey, Lee A and Rivkin, David B. "Rethinking the Geneva Conventions." in *The Torture Debate in America*. Edited by Karen Greenberg. 2006. Cambridge: Cambridge University Press. 211.

the "War on Terror" is not "pursuant to the Geneva Conventions," neither, then should be the U.S.[25]

Heather Macdonald stresses in her essay *How to Interrogate a Terrorist* that "obedience to Geneva rules rests on another bedrock moral principle: reciprocity." Terrorists, however, "flout every civilized norm animating the conventions. Their whole purpose is to kill noncombatants, to blend into civilian populations and to conceal their weapons."[26] MacDonald is amongst those who support the use of torture, in such an extreme circumstance, on moral grounds. Those who oppose torture, she argues, "have missed at least one half of the humanitarian equation - and the better half at that,"[27] siding with those who state "torture is an unpleasant means to an unnecessary end."[28]

These notions are not just apparent in academic and political debates, but also permeate further into the cultural content of U.S. society. "The Parents Television Council counted 102 scenes of torture on prime time television during the five years prior to September 11, 2001. In the following three years, that number increased to 624." The "television series 24 led the way," with "67 scenes depicting torture were broadcast during the first five seasons of 24."[29] John Downing argues that, particularly because of its adherence to the idea of the "ticking time bomb scenario," the show

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[25] Ibid, 212.

[26] MacDonald, Heather. "How to Interrogate a Terrorist." in *The Torture Debate in America*. Edited by Karen Greenberg. 2006. Cambridge: Cambridge University Press. 87.

[27] Ibid, 87.

[28] Greenberg, Karen. Eds. *The Torture Debate in America*. 2006. Cambridge: Cambridge University Press. 3.

[29] Kelsowitz, Steven. *The Tao of Jack Bauer: What Our Favorite Terrorist Buster Says About Life, Love, Torture, and Saving the World 24 Times in 24 Hours With No Lunch Break*. 2009. Bloomington: iUniverse. 47

constructs a "strangely binary" image of counter-terrorism and justice, "which serves to insulate U.S. counter-terrorist philosophy and practice from an urgently-needed rigorous public critique."[30] Downing argues that this series alone expanded the "threshold of tolerance" for political violence and torture.[31] Kelsowitz supports this idea, stating "24's politics arguably mirrored the policies of President Bush during his presidency."[32] This is just one example of how the justification and acceptance of torture in the U.S. can run much deeper in U.S. culture than the words of politicians and the arguments of academics. At all levels, torture is made permissible by Jacksonian arguments of security and the assumption of superiority over a dehumanized enemy, both underpinned by American nationalism and racial superiority.

The Ideology of Torture in the "War on Terror"

The legal debate regarding the justification of torture could comprise a thesis in and of itself. The sentiment of these memoranda and the justification of torture, however, are crucial in demonstrating the continuation of the ideology of torture and, specifically, the relevance of Jacksonianism in the use of torture in the twenty-first century. Cole remarks that the law "recognizes very few absolutes."[33] Torture, however "is different," offering no justification or exception under any circumstances

[30] Downing, John. "Terrorism, Torture And Television: "24" in Its Context." *Democratic Communiqué*. 21:2. Fall 2007: 62.

[31] Ibid, 78.

[32] Kelsowitz, Steven. "The trial of Jack Bauer: The Televised Trial of America"s Favorite Fictional Hero and its Influence on the Current Debate on Torture." *Cardozo Law Review*. 2010. 5.

[33] Cole, David. *The Torture Memos: Rationalizing the Unthinkable*. 2009. New York: The New Press. 7.

or for any reason. The Convention Against Torture explicitly states that "no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."[34] Beyond the Convention Against Torture, torture is also outlawed in the Geneva Convention and in domestic law precisely because history shows that nations will be tempted to resort to torture in exceptional times of war or instability. The influence of Jacksonianism, however, is to compel the United States towards strong, violent and retributive action in times of threat, fear or crisis.

The prevailing ideological trait of U.S. foreign policy post-9/11 was Jacksonianism. This is clear in the rhetoric that was used to communicate and justify the U.S. response to 9/11 to the public at large. In his address to a Joint Session of Congress shortly after the attacks, President Bush declared, "tonight we are a country awakened to danger and called to defend freedom. Our grief has turned to anger, and anger to resolution. Whether we bring our enemies to justice, or bring justice to our enemies, justice will be done."[35] This can be closely related to the OLC memos and "the unrelenting and consistent nature of these legal judgments" that, according to David Cole, "reflect a predetermined and inexorable agenda on behalf of the executive to permit torture"[36] and to defeat the enemy by any means.

Despite the reputation of the U.S. as a nation built on the rule of law, Cole stresses that "security and national interest trumped all else" and silenced all other

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[34] The United Nations. *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. February 4th 1985. Online. Article 1. Online. http://www.hrweb.org/legal/cat.html.

[35] *The Washington Post. "Text: President Bush Addresses the Nation."* September 20th, 2001. Online. http://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/bushaddress_092001.html

[36] Cole. *The Torture Memos,* 11.

concerns and priorities. David Caron argues that the "failed state doctrine is a fabrication" and a "unsupported doctrine" and that the Geneva Convention "cannot be set aside just because Afghanistan has failed."[37] Moreover, Michael Ratner and Peter Weiss suggest the OLC memos were the result of short-term political desires, and David Luban argues that the ticking-time bomb scenario has never occurred and relies on "assumptions that amount to intellectual fraud."[38] As such, it appears that the Executive and the OLC contrived to manipulate and suspend both legal and moral principles in the Jacksonian context of the War on Terror. The place of Jacksonian rhetoric is recorded in a memorandum from President Bush to a number of executive staff that stated, "the war against terrorism ushers in a new paradigm," justifying exceptional and extreme acts by the exceptional and frightening nature of context the context and the enemy.[39]

This Jacksonian fixation on retribution and defense is not new, Phillip Heyman recalling that "even before 9/11 America often struggled with the tension between security and liberty."[40] Heyman cites the suspension of Habeas Corpus during the Civil War, the internment of Japanese-Americans during WWII and spying on civil rights protestors during the Vietnam War are all examples of how America, in a Jacksonian fashion, threw off the gloves and cast aside the rules and principles that it was seemingly bound by. While these acts are not torture, they demonstrate the

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[37] Ibid, 215.

[38] Luban, David. "Liberalism, Torture and the Ticking Time Bomb: in *The Torture Debate in America*. Edited by Karen Greenberg. 2006. Cambridge: Cambridge University Press. 262.

[39] Bush, George W. *Memorandum for: The Vice President, The Secretary of State, The Secretary of Defense, The Attorney General etc… Humane treatment of Taliban and Al Qaeda Detainees."* Online. http://www.pegc.us/archive/White_House/bush_memo_20020207_ed.pdf. 3.

[40] Heymann, Phillip B. *Protecting Liberty in an Age of Terror*. 2005. Boston: MIT Press. vii.

fragility of U.S. law, norms and civil liberties in times of crisis.

Similarly, post-9/11, the concerns of human rights and the law were suppressed in deference to "enhance interrogations," the commitment to which was further demonstrated by Donald Rumsfeld's personal visit to Guantánamo in order to discuss and authorize the use of death threats and waterboarding in the interrogation of Mohammed Al-Qahtani."[41] Heather MacDonald, in support of the use of torture in such exceptional circumstances, writes that "the Islamist enemy is unlike any the military has encountered in the past" and that "the orthodoxy need to change."[42] Torture, however, has often been justified by the need for a "new orthodoxy." One might, for instance, liken the perception of the enemy in the War on Terror as the "Axis of Evil" or "Hajis" to Lieutenant Doolittle's description of Soviets as an "implacable enemy" against whom there should be "no rules," or Roosevelt's description of Filipinos as "mere savages,"[43] both of which led to the justification of torture, which has been broadly criticized in the long-term perspective of historical scholarship. The Jacksonian nature of U.S. foreign policy in times of crisis, however, inspires policy makers to act boldly, with a short memory of the many other "new orthodoxies" declared or "exceptions" made in the past.

Bush's rhetoric also alludes to American nationalism and American greatness,

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[41] Ibid.16. Cole also explains how this authorization significantly contributed to the use of these tactics in CIA prisons around the world. Moreover, in May 2008, all charges of war crimes were dropped against Al-Qahtani, the "would be 20th hijacker on 9/11," as the evidence in his case was tainted by the brutal nature of his interrogation and torture.

[42] MacDonald, Heather. "How to Interrogate a Terrorist." in *The Torture Debate in America*. Edited by Karen Greenberg. 2006. Cambridge: Cambridge University Press. 87.

[43] United States. Report on the Covert Activities of the Central Intelligence Agency. 26th July 1954. A racial slur used to amongst many military members to describe Iraqis, or others of Arabic descent. Captain Daniel Dieckhaus. *Marine Corps Gazzette*. "Put "Haji" to rest." January 2010. Vol 94:1. https://www.mca-marines.org/gazette/2010/01/put-haji-restTheodore Roosevelt. "*The Expansion of the White Races…*" 1909

declaring that "The advance of human freedom - the great achievement of our time, and the great hope of every time - now depends on us" and that "this will be an age of liberty, here and across the world."[44] While legal maneuvers may have been the key in moving forward with torture and the program of "enhanced interrogation," this speech demonstrates the political attitudes and ideologies that underpinned such legal interpretations. Further evidence of this can be seen in Vice President Richard Cheney's defense of torture in 2009, even after much criticism of torture in Abu Ghraib and Guantánamo Bay. Asserting that intelligence officers can be "proud of their work," Cheney stressed that the administration was, and still is, "committed to using every asset to take down their networks" using "all necessary and appropriate measures."[45]

What is especially salient for this thesis is that Cheney justified any activity in the name of "protection" following 9/11, relating the torture of suspects to the safety of American citizens despite extreme moral quandaries and little evidence to substantiate this. It is evident that in these cases that what is deemed "necessary" will make irrelevant whether it is "appropriate" or otherwise. In this respect, Bush's judicial remedy was the result of extrajudicial ideological influences relating to Jacksonian justice and American nationalism, capitalizing on the flexibility and potential for manipulation in both domestic and international law. Anthony Lewis explains that "American democracy is an experiment in government based not on fear, but on freedom" but that "the spread of fear can undermine America as a Democracy,"

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[44] *The Washington Post*. "*Text: President Bush Addresses.*"

[45] Cheney, Richard. "Cheney reflects on Legacy; defends interrogation policy." *PBS Newshour*. January 14th 2009. Online. http://www.pbs.org/newshour/bb/politics-jan-june09-cheney_01-14/

perhaps helping to explain why America faces this on-going moral, and legal, contradiction.[46]

The "National Security Strategy" of 2002 was perhaps the primary incarnation of American foreign policy sentiment following the attacks of 9/11. This document laid out the administration's view of the global situation including the key threats to and ambitions of the U.S. in the twenty-first century, each framed with distinctly ideological language. American nationalism is clearly represented in the description of America as "sustained by faith" and the belief that the U.S. has "unparalleled responsibilities, obligations and opportunity," remarkably similar to the rhetoric of O'Sullivan in 1839 or Roosevelt in 1907. Moreover, it expresses the assumption that "U.S leadership of the advance of progress was destiny."[47] Finally, the strategy declared that "we must adapt to the concept of imminent threat" and that "the United States cannot remain idle while dangers gather."[48] This is the expression of American nationalism, as well as Jacksonian fear and aggression, that was evident throughout so many moments in American foreign policy history, and that was so tangible in instances of torture centuries before this document.

While one might assume that any ideology in the "War on Terror" belonged solely to the terrorists, there is more than a touch of ideology in the reaction, strategy and policy of the United States. The presence of American nationalism and Jacksonianism are clear throughout a number of documents within government and in

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[46] Lewis, Anthony. "Fear, Terrorism and the Constitution." *Public Administration Review*. Vol. 62. Issue 4. (July 2002). 61.

[47] Quinn. *U.S Foreign Policy in Context,* 165.

[48] United States. The White House, *National Security Strategy* 2002. Online. http://www.state.gov/documents/organization/63562.pdf

the public-facing discourse that justified and legalized torture at the outset of the "War on Terror." Racial superiority, however, is a much harder ideology to pin down in the twenty-first century. Despite this, Roberts explains that the "normalization of torture" in the "War on Terror" is evidence continued racial bias "cloaked in colorblind due process that is administered by state officials."[49] Roberts' conclusions reflect the work of Eduardo Bonilla-Silva, whose *Racism Without Racists* suggests that race persists in informal structures, assumptions and practices. Racial superiority, therefore, may have a role in the legalization of torture against "illegal enemy combatants" and in the assertion that "we must oppose evil with force."[50] This thesis, however, does not find significant or explicit evidence that racial superiority played an important part in the justification of torture at high levels of government or military authority during the "War on Terror."

Having said this, many authors have made substantial connections between racism, racial superiority and the torture during the "War on Terror." As such, there is a growing literature on the role of racism, sexism and imperialism and its application to torture in the "War on Terror," a literature that often, understandably, centers on the acts exposed at Abu Ghraib. Jashir Puar puts forward that the torture at Abu Ghraib was "homophobic, racist, misogynist and imperialist" and that torture, rather than being a random act of war, "constitutes a systemic, intrinsic and pivotal module of power relations."[51] Similarly, Anne McClintock argues that "the specific techniques at

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[49] Roberts, *Torture and The Biolpolitics of Race*. 244 and Bonilla-Silva, Eduardo. *Racism Without Racists*. London: Rowman & Littlefield.

[50] MacDonald, Heather. *How to Interrogate a Terrorist,* 87.

[51] Puar, Jashir K. "On Torture: Abu Ghraib." *Radical History Review*. Fall, 2005, Issue 93. 13(26). 24; 35.

Abu Ghraib are not new, they are continuous with a long imperial archive of colonial and racial cruelty," one of a number of authors who draws parallels between the acts, images and character of torture at Abu Ghraib and that of the lynchings and torture that took place centuries ago.[52] Addressing the justification and impunity of torture, Arshin Adib-Moghaddam argues that "Abu Ghraib could not have happened without a particular racist current in the United States." In doing so, he asserts that torture in the "War on Terror" is "part of a larger constellation with its own signifying ideational attitudes towards Muslims and Arabs."[53] Melani McAlister supports this idea, suggesting that U.S. expansion and invasion into the Middle East over many decades has been bolstered by "a self image for Americans of themselves as citizens of a benevolent world power."[54] As such, Matthew Jacobs highlights that the "War on Terror," as well as U.S. relations with the Middle East are based on unclear ideas and notions of who "they" are Jacobs quotes George Bush's declaration "They hate our freedoms – our freedom of religion, our freedom of speech, our freedom to vote and assemble and disagree with each other," helping to construct a generic, adversarial and inferior perception of "them" in the Middle East.[55]

These authors suggest that, just as it has been in many wars and in many examples of abuse in the past, torture in the "War on Terror" is part of a broader narrative of psychology of racial dehumanization and domination. As such, Sherene

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[52] McClintock, Anne. "Paranoid Empire: Specters from Guantánamo and Abu Ghraib." *Small Axe*. 2000. Vol.13(1): 54-70.

[53] Adib-Moghaddam, Arshin. "Abu Ghraib and Insaniyat." *Monthly Review*. December 2007. Vo.59(7).

[54] Melani McAlister. *Epic Encounters: Culture, Media, and U.S. Interests in the Middle East, 1945-2000*. 2005. Los Angeles: University of California Press. *xi*.

[55] Jacobs, Matthew F. *Imagining the Middle East: The Building of an American Foreign Policy*. 2011. Chapel Hill: The University of North Carolina Press. 7.

Razack argues, "the nation understood that such things are bound to happen when a "civilized" West encounters "savages."[56] Not only, therefore, could race be a motivation or influence in the use of torture, but it also serves to justify its use and excuse those who enact it, Andrew Austin arguing that "racism makes it permissible to murder and torture people. And it makes it possible for us to forgive such acts of violence and to call them by another name."[57]

These arguments are often sweeping and strong arguments based on the acts of a few and general social assumptions about the public, and should thus be treated with caution. They are, however, evidenced by many accounts of torture during the "War on Terror." Human Rights Watch documented the story of "Nick Forrester," who "was stationed at FOB Tiger from early May 2003 through late September 2003" and who "for most of his time at Tiger, Nick was ordered to serve as an MP guard for the detention and interrogation operations at the facility."[58] He reported not only that "almost all of the detainees captured and interrogated at Tiger were subject to serious mistreatment," such as sleep deprivation, stress positions, beatings, kicking and keeping detainees in small containers, but that race was a key motivator in the torture and abuse of prisoners. "I think part of the problem is the blatant racism against the Arabs. Just blatant, you know," he reported. "When you have an enemy, you kinda have to demonize them a little but like that in order to make yourself capable of

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[56] Razack, Sherene H. "From Peacekeeping Violence in Somalia to Prisoner Abuse at Abu Ghraib: The Centrality of Racism." *Global Dialogue*. Winter 2005; 7, 1/2. 134.

[57] Andrew Austin, "Review Essay: Explanation and Responsibility: Agency and Motive in Lynching and Genocide," *Journal of Black Studies*. Vol. 34:5. (May 2004).,721.

[58] Nick Forrester is a false name given in the interest of confidentiality in the report. Human Rights Watch. *No Blood, No Foul: Soldiers' Accounts of Detainee Abuse in Iraq."* July 2006. Vol.18 (3).

pulling a trigger."[59] Consequently, although racial superiority may be a less detectable and certainly unofficial influence on U.S. foreign policy, it can still have a marked influence in the conduct and justification of torture.

Torture in contemporary U.S. foreign policy, as it was a century ago, can also be connected to political culture and societal attitudes towards torture. Amnesty International reports that the U.S. has comparatively low support for "clear rules against torture," with 15-20% less support compared to European nations such as France, Germany or the UK.[60] In a similar trend, only one in four Americans said torture is "never justified," demonstrating that, even if the majority do not support torture, there are large proportions of the society that support or will justify torture, especially in under "exceptional" circumstances.[61] Paul Gronke et al. give a wider view of public opinion on torture in the "War on Terror." Although they conclude that, despite assumptions in government, there was not a majority in support of torture, they also demonstrate that there was no firm opposition to torture, with less than 30% of respondents believing torture is "never" justified and over 50% of respondents believing torture is justified "sometimes" or "rarely."[62] This underpins the idea that Jacksonian sentiment, in times of crisis, leads to the abandonment of firm moral values, such that the U.S. is willing to accept or overlook torture in times of crisis.

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[59] Ibid.

[60] Amnesty International. *Global Survey of Attitudes to Torture 2014*. Online. http://www.amnestyusa.org/pdfs/GlobalSurveyAttitudesToTorture2014.pdf. 4.

[61] *Huffington Post*. "Torture Poll: Most Americans Say Torture is Justifiable at Times." 14th December 2012. Online. http://www.huffingtonpost.com/2012/12/14/torture-poll-2012_n_2301492.html

[62] Gronke et al. *U.S. Public Opinion on Torture*, 440.

One might conclude on the legacy of torture in U.S. political culture with remarks drawn from a 2016 Presidential debate where, extraordinarily, clear breaches of domestic and international law were openly discussed and embraced as candidates "compete over their embrace of torture."[63] Republican Party candidate Donald Trump declared that he would embrace the waterboarding of "these animals over in the Middle East…in a heartbeat" and promised to brink back "a hell of a lot worse."[64] Marco Rubio also backed waterboarding, asserting, "terrorism cases should not be held to the same humane legal standards of traditional law enforcement."[65] Not to be outdone, Ted Cruz, previously an "outspoken opponent of torture" after his father was tortured in a Cuban prison, endorsed the 2003 Justice Department definition of torture, that waterboarding was enhanced interrogation and "does not meet the generally recognized definition of torture."[66] Given that torture is so clearly outlawed under the legal obligations of the U.S. at home and abroad, it seems remarkable that candidates would be so outspoken and ardent in their support for its use. Moreover, the debate demonstrated disregard for legal and moral principles such as the right to a free trial, upon which the U.S. has been built. It also, however, reflected a remarkably high level of support or connivance for torture in U.S. political culture. As such, Claudia Card

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[63] *BBC News*. "US election 2016: Donald Trump under attack from debate rivals. March 4th 2016. Online. http://www.bbc.com/news/election-us-2016-35722458

[64] Ibid. and *The Economist*. "Presidential candidates compete over their embrace of torture." February 13th 2016. Online. http://www.economist.com/blogs/democracyinamerica/2016/02/republicans-and-waterboarding

[65] Carter, Zach. *The Huffington Post*. "Republicans Try To Outdo Each Other On Torture." February 6th 2016. Online. http://www.huffingtonpost.com/entry/gop-debate-torture-waterboarding_us_56b6ae8ce4b04f9b57d9e72c

[66] Kisser, Glenn and Ye Hee Lee, Michelle. *The Washington Post*. "Fact checking the eighth GOP debate." February 7th 2016. Online. https://www.washingtonpost.com/news/fact-checker/wp/2016/02/07/fact-checking-the-eighth-gop-debate/

concludes that torture "cannot be written off as the work of a few deranged minds" but instead represents "social complicity that is widespread and takes many forms."[67]

"The difference between a great nation and a mighty nation," Mahmoud Cherif Bassiouni asserts, is not "its military wherewithal or its ability to exercise force, but by its adherence to higher values and principles of law," Gillers adding that "this is what the U.S. is based on, and this is what has made it a great nation."[68] The "War on Terror," however, has demonstrated that the U.S. can be quick to cast aside its commitments to the law and to policies of higher moral value. Instead of, as George Kennan urged, "having the courage and self-confidence to cling to our own methods and conceptions of human society," the U.S. finds itself responding to threats and aggressors with torture.[69] This torture, this thesis has shown, is facilitated by Jacksonianism, American nationalism and racial superiority, ideologies which permeate the words and actions of torturers as well as those who excuse or justify the use of torture, going some way to explaining the contradictions of and challenges to the U.S.' assumed character.

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[67] Card. *Confronting Evils,* 233.

[68] Bassiouni, M. Cherif "Great Nations and Torture," in *The Torture Debate in America,* Edited by Karen Greenberg. 2006. Cambridge: Cambridge University Press. 260 and Gillers, Stephen (2007) "The "Charles Stimson" Rule and Three Other Proposals to Protect Lawyers from Lawyers," *Hofstra Law Review*. Vol. 36: Iss. 2. Article 7. 327.

[69] *Telegram, George Kennan to George Marshall ["Long Telegram"]*. February 22, 1946. Harry S. Truman Administration File, Elsey Papers. Online. https://www.trumanlibrary.org/whistlestop/study_collections/coldwar/documents/pdf/6-6.pdf

Conclusion

In May 2009, President Barack Obama, speaking on torture, urged the U.S. to "leave these methods where they belong – in the past. They are not who we are. They are not America."[1] Given the grounding of the U.S. in the rule of law and rights of the individual as well as the centrality of the rule of law, torture is surely "completely contrary to the principles and policies of the United States."[2] Torture, however, has been present in all epochs of U.S. history, and has now become a widespread, global matter of U.S. foreign policy. This thesis has presented three ideologies: Jacksonianism, American nationalism and racial superiority, each of which which have been present in almost every episode and context of torture in U.S. history and that are crucial in explicating the contradiction between the U.S.' use of torture and the values it expresses.

While the context of torture and the specific of it use have changed over time, this thesis argues that torture in U.S. history, and the puzzle of torture in U.S. foreign policy, is primarily a tale of continuities. The evidence throughout this thesis demonstrates the endurance and recurrence of torture throughout U.S. history, from its use against Native Americans in the 18th century, to the abuse and torture of slaves and black Americans in the 19th and 20th century. In more recent episodes of U.S. history, torture has been used in wars against the Filipinos and the Japanese, extensively in the Cold War in Vietnam and Latin America in particular and, most

[1] Steele, Brent. J. "The Insecurity of America." In Heinze, Eric A. *Sustainability, and Security: Global Ethics for the 21st Century*. 2013. Palgrave Macmillan, New York. 196

[2] McCoy. *A Question of Torture,* 233.

recently, in the "War on Terror." At a fundamental level this continuity raises questions about any underlying reasons for the persistence of torture in the U.S., as well as the connection between phenomena such as torture in domestic history and in foreign relations. Whilst the acts and victims of torture vary, the use of torture and its justification are persistent throughout many eras of U.S. history. It is thus worth asking whether methods of torture, despite President Barack Obama's comments to the contrary, *are* America, not just because of the historical frequency with which it has occurred, but also because of the ideologies that have bolstered torture for centuries of U.S. history.

It is of course, notable that neither U.S. torture, nor the ideologies that proliferate it, exist in a vacuum. One can observe torture in global history far before the U.S. existed; the "Romans, Jews, Egyptians and many other cultures in history included torture as part of their justice system."[3] Moreover, some of the specific methods of torture referenced throughout this thesis were seemingly invented by nations with long histories of torture such as the British and the French.[4] Furthermore, the political culture and political thought of the U.S. have been affected by other nations, including its European allies. Additionally, the ideologies flex in relevance depending on the political and cultural context at the time. American nationalism, for instance, was highly relevant in the torture of Native Americans, and has taken a different shape in more modern conflicts. Similarly, the influence of racial superiority

[3] Physicians for Human Rights. *History of Torture*. 2010. Online. http://phrtoolkits.org/toolkits/istanbul-protocol-model-medical-curriculum/module-1-international-legal-standards-overview/torture/history-of-torture/

[4] Relaj, Darius. *The Boston Globe*. "Torture, American Style." December 16th 2007. Online. http://www.boston.com/bostonglobe/ideas/articles/2007/12/16/torture_american_style/

and Jacksonianism has risen and fallen depending on the nature of the existential threat faced in any historical instance.

The argument of this thesis, therefore, is not that these ideological variables are entirely causal of U.S. torture, but that they illuminate the specific climate and the particular elements of U.S. political culture that have enabled the continuation of torture in contemporary U.S. foreign policy. The nature of this continuation is important to understand, given the infamy and extent of U.S. torture and the moral and legal contradictions it presents. Moreover, torture persists in U.S. discourse and policy far more than in democracies such as Britain and France, where, despite having long histories of torture, it appears to have ceased.

There are two fundamental consequences of the role of these ideologies. The first is that they should be closely considered when analyzing the instances and policies of torture in U.S. foreign relations. In particular, these ideologies can help explain the continuation of torture in spite of flagrant moral contradictions to which historians and political scientists frequently allude. The consistent prominence of racial superiority, the importance of America's own nationalism and the ability to suspend moral and legal values help explain how U.S. foreign policy can be quickly and blatantly transformed, and can swiftly abandon principles of the rule of law and human rights. The last of these, Jacksonianism, is perhaps the most significant contribution of this thesis, given the more established nature of the other ideologies and the fact that, when there is a threat or an enemy, the pleas for "exceptions" and a "new paradigm" will always be used to make it permissible.

Additionally, the consequences of Jacksonian rhetoric and violence could be far

greater in the twenty-first century, where the threat of terrorism seems likely to be more constant than ever before. The U.S., therefore, may find itself accepting torture as habitual due to the ever-present level of threat, compared to the U.S. of previous centuries where exceptional circumstances and threats were more likely to be wars that occurred every few decades. Moreover, American nationalism, Jacksonianism and racial superiority may also characterize the foreign relations of the U.S. at large, in particular in its response to moments of crisis and aggressors. The Jacksonian nature of U.S. foreign policy regarding torture, for instance, may also apply to the use of military force at large when the U.S. is threatened or attacked. In addition, the concepts of Jacksonianism and American nationalism have explanatory power regarding questions of international law, international norms and the conduct of U.S. foreign policy, and may help to elucidate other contradictions in modern day U.S. foreign policy.

The second consequence of this research is for those who seek to end torture and prohibit its use, now and in the future. Although the weight of domestic law, international law and the seeming international normative consensus seeks to eradicate torture, the ideologies explained and the return of the U.S. to torture in moments of insecurity may help enlighten the shortcomings of this mission thus far, both in the U.S. and overseas. Understanding the motivations, contexts and ideologies of torture in the U.S. may, however, encourage an awareness of the rhetoric and ideological characteristics that may encourage future acts of torture. In particular, it is evident that torture in U.S. history is frequently justified by the "exceptional" nature of circumstances and the need for "new orthodoxies." A cursory look at the ideology

of torture in the past, however, will show the repetition of this argument over history, including the recurrence of these notions in some of the darkest and most shameful moments of U.S. history.

Politicians, academics and spectators should, thus, not be surprised by the continuity of torture in U.S. history, and should not be stunned by its recurrence during the next security crisis of the U.S. While the manifestation and expression of these ideologies has varied over time, their longevity has demonstrated that torture is not the exception and is not the work of 'a few bad apples', but instead is a choice with significant roots in American history and society.

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