

The Trouble With Torture...

An introduction to psychological and political arguments
against extreme interrogation and indefinite preventive detention

Dennis Rivers, MA
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*Dedicated to Dilawar and Habibullah,
and to the memory of Spc. Alyssa Peterson,
a US Army interrogator who committed suicide
a few days after refusing to participate in torture.
She understood things that we are only beginning to
understand now, and there was no one there to help her.*

SUMMARY

In recent years, approximately half of American adults have consistently indicated support for the torture of "terror suspects," and there is pressure from the security services in the United States to legalize the practice of indefinite preventive detention. Thus, torture and the militarization of everyday life have become pressing and ongoing issues in discussions about the future of life in America. These developments are deeply at odds with the vision of cooperative communication and conflict resolution presented at www.NewConversations.net.

"The Trouble With Torture..." argues in detail that there are at least four serious problem areas associated with the acceptance of torture and indefinite preventive detention as part of a national defense strategy.

First of all, both torture and indefinite preventive detention represent a huge increase in the power of the government to hurt individuals, a clear move away from the U.S. Constitution's ban on cruel and unusual punishment and the Constitution's insistence that a person cannot be punished without first being convicted of a crime by a jury of their peers.

Second, it is not clear that the practice of torture, once begun, can be contained. There is recent evidence that torture and complicity in torture spread quickly across institutions and professions. Similarly, the practice of locking people up based on vague suspicion tends to develop a perverse momentum of its own. Experience at Guantánamo and Abu Ghraib showed that it was much easier to incarcerate people than it was to set them free, even when they had been found innocent by the detaining authorities.

Third, there is a mountain of testimony from military officers to the effect that torture produces bad information, and there good reasons to believe that the practice of torture will create more enemies than it thwarts.

Finally, both torture and indefinite preventive detention are psychologically toxic in a variety of ways to the people who inflict them and allow them. What we physically inflict on others, we psychologically inflict upon ourselves.

Even in time of war, and perhaps especially in time of war, it is up to each person to keep supporting what is best in people, and to resist being swallowed up by what is worst. Readers are invited to deepen their knowledge of and support for the Geneva Conventions, and for the related group of treaties that taken together form what is now called International Humanitarian Law, while also working at a personal level to keep alive the possibility of communication and dialogue based on listening and mutual respect.

Introduction: Why Discuss the Torture Issue?

Being a teacher of conflict resolution and cooperative communication skills in a country fighting two long wars, is, at the very least, a challenging assignment. I began my work teaching and writing about communication skills thirty years ago believing that the entire world was on an upward path toward cooperation, no matter how many bumps there might be in the road. Eight years of war and the emergence of the torture issue have made me realize how vulnerable we are to sliding backwards into old, even ancient, forms of behavior. War, torture¹ and indefinite preventive detention.² are not simply political issues. They are also part of the cultural air we breathe, setting the horizon of what we take to be possible and what we take to be impossible. War, torture and indefinite preventive detention all represent profound communication failures, written large across the world. As difficult as it may be, I believe we have to understand these failures better in order to keep from repeating them.

A central idea in the Seven Challenges communication skills training materials at www.NewConversations.net is the concept of mutual mirroring: often what we object to in another person's behavior is something that we ourselves are doing, thus keeping the unhappy spiral moving. While that might be embarrassing, it is also hopeful: to the degree that we are causing even part of our problems, we can begin to improve our situation by changing our own behavior. This is what Gandhi meant by "be the change you want to see," which applies to individuals, families, companies and nations as well. But if we cannot bear to think about what we are doing, at any of these levels, then we will have a hard time doing something new. The point of this inquiry is not to label a few individuals as guilty of war crimes, although that may indeed be true. The point of this inquiry is to help us all resist the seduction of coercion, the idea that if we just hurt enough people, we will make ourselves safe. That is an ancient temptation, and in the torture debate it has arrived once again at our doorsteps.

Although there appears to have been an interruption in the practice of torture by U.S. agencies and armed forces, the debate about torture is far from over. American political life includes many politicians and commentators who are outspoken in their support for torture or indefinite preventive detention or both. According to recent polls, somewhere between forty percent and sixty percent of American adults support the torture of "terror suspects,"³ so the problem is not confined only to policy makers and talk-show hosts. Unfortunately, if enough people support torture and/or fear-based imprisonment, politicians

will surely arise who will play to their fears and find ways to carry forward their mandates, however confused or misguided those fears and mandates may be. This seems evident to me in the June, 2009, proposal of the Obama administration to legalize indefinite preventive detention in the United States.

These two practices, symbolized by the waterboard and Guantánamo, violate much of what Americans have struggled for since colonial days. And they are linked together in several unhappy ways. Indefinite detention is in itself a form of slow torture, especially as now practiced in the form of solitary confinement with sensory deprivation. And the practice of interrogation by torture inevitably, I will argue below, involves torturing innocent people, who then become sworn enemies who need to be detained on an indefinite basis to prevent them from attacking the country that tortured them.⁴ And so on, the downward spiral turns. Waterboarding is only the most well known of a range of brutal techniques. We are all weary of thinking about these things, now eight years after 9/11, but the challenges presented by torture and indefinite preventive detention are so serious, and so ongoing in present political debates, that I don't see how we can avoid them. The fact that there are laws against torture and precedents against preventive detention will only be meaningful if most citizens know about those laws and precedents, and actively support them. (Both of these conditions are in doubt in the United State at this moment.)

The choices over using or not using torture, and over imprisoning people based only on the fear that they might someday do us harm, are not just about choosing strategies to collect needed information and keep our country safe. They are also very much choices about the kind of world we want to live in and the kind of world we want to create by our own actions. To be part of a culture that engages in torture and fear-based-imprisonment is to choose a world where creating and inflicting terror is acceptable, where exerting utter power and control over the minds and bodies of defenseless people is normalized. It is not only the victim of torture whose sense of connectedness to others and open-ness to the world is shattered. The torturers and the allowers of torture are also shattered, numbed and disconnected from other people. We all live in the very same world that we ourselves are making more brutal by the minute, all the while muttering to ourselves, “they started it” and “they do worse” as if to drown out the knowledge of what we are doing.

When torture and universal fear of imprisonment are knit into the way we conduct ourselves with others, we fall into a world of good-versus-evil binary oppositions that blind us to our own capacity to cause pain and make serious mistakes, on the one hand, and also blind us to the humanness and the sacred essence of all people, some of whom we have

now defined as “unlawful enemy combatants.” The rhetoric that justifies these extreme measures imagines the others as inhuman destroyers of life and ourselves as noble warriors. There is also a very important binary opposition, *among ourselves*, between the saintly but ineffective good guy who believes all violence is wrong, and the tough, realistic people, like the TV character, Jack Bauer, who do whatever needs to be done to save the day and spend no time worrying about the morality of what they have done.

In several important ways, I see this dichotomizing as obscuring our view of what is going on in the world, including our own actions. And it greatly oversimplifies the conflicts in which we are now caught. By virtue of these oversimplifications, some thoughts become nearly impossible to think. For example, that the use of torture might be bad military strategy, like an apparently brilliant chess move that causes you to lose the game. Or, that our commitment to moral standards of behavior is part of what allows us to hold onto allies and persuade bystanders to either join our side or stay out of the conflict. Or that torture may represent a kind of self-inflicted wound upon the soul of America. (Once justified as appropriate for *some* circumstances, we have no idea where or how far the practice of torture will spread.) The dramatic but deceptive contrast between the saintly but ineffective good guy, and the tough but immoral protector of the people, who is always in a hurry, completely obscures the question of how carefully anyone is thinking about the meaning, implications and consequences of what we are doing.

So the rest of this article is my effort to try to think more clearly about some of the serious issues in which we are now entangled. For the most part I am going to concentrate on the issue of torture, but many of moral, psychological, legal, and strategic liabilities of torture also apply to indefinite preventive detention. I have also to push out the boundaries of the discussion in ways that some readers may find unpleasant. Many public commentators on the topic of torture seem, in my view, reluctant to discuss that fact that torture can and does lead to death. We know now that since 9/11 at least nine detainees held by the United States have been tortured to death in the course of interrogation (which constitutes a major instance of war crimes). There are another 40 to 80 deaths of detainees which may turn out to have been the result of torture. How we respond to this issue will say a lot about who we are and what we believe in. I sympathize with President Obama's repeatedly restated desire to focus on the future and not politicize the past. However, it is not clear to me how many of these deaths in custody we can overlook before the rule of law begins to unravel for all of us.

In many democracies, torture happens⁵, but it happens as a problem on the edges of

society, at the boundaries of conflict. What is significant, and scary, to me about the current torture debates is the effort over the past eight years to move torture from a problem at the edges to a policy at the center. What will our country feel like if and when torture moves to the center? From a communication perspective, this move would represent a deep giving up of hope, a resignation to the idea that we are always going to be living in the dark ages. I am not resigned, but I am sobered. In the Washington Post, a blogger commented in May, 2008, that “whether it’s waterboarding or water balloons, I don’t care, as long as it keeps us safe.” My hope is that we will all think more carefully than that about these issues.

**1. Dictatorship in a locked room:
questions about the reach and power of the State.**

In the United States, we have spent the last two centuries struggling to maintain limits on when and how agents of the state can hurt or imprison a person. Once we start to remove those limits, we will all be in danger. Torture represents imprisoning and hurting someone without formal criminal charges, without a trial by jury of one's peers, without review by a judge, without a conviction or a sentence, in cruel and unusual ways, all violating our most basic American rules of law and order, grounded in the U.S. Constitution. Torture and fear-based-imprisonment represent the essence of military dictatorship in a locked room. The apologists for “Enhanced Interrogation Procedures” assert the right to imprison and hurt people based on mere suspicion or even just on vague probabilities, if we are at war or if there is some great threat, real or imagined, on the horizon. Anyone, you or I, could be the object of suspicion by *someone* under *some* circumstances, and if suspicion is all that is required, then you or I could be tortured or locked up without charges for the rest of our lives. If in the process of being imprisoned or tortured or both, we become so angry that we want to lash out at the people who have hurt us, then we become dangerous enough, in current thinking, to merit indefinite detention without trial. The current justification offered by apologists for torture seems to be that desperate fear justifies anything and everything. But truly, one cannot live by fear alone. The idea that fear for the safety of others justifies all manner of cruelty and abuse is a danger to democracy, to morality and even to our own sanity. Once we adopt that principle, there is no limit to how bad things can get. I doubt that we will be able to keep the military dictatorship confined to a few locked rooms.

Since 9/11, the accumulating evidence suggests that somewhere between 9 and 80 people have been tortured to death under interrogation. We know for sure that at least two

of them, Dilawar and Habibullah were completely innocent of any involvement with our enemies. Here we are faced with fact that torture can quickly escalate to murder, and if it is justifiable to torture or kill one person in order to save the lives of thousands, why not torture 10 or 50 or 100. (This is the sort of noble-ends-justify-evil-means reasoning that conservatives used to excoriate as the evil heart of communism.) Where will these sorts of justifications end? And where will the practices lead? For example, once you torture someone, you can't let them go even if they are innocent because they could reveal your secret torture methods, so that means secret prisons or hidden executions. Also, torturing "the wrong people," that is to say, people who are not involved in any way in the current conflict, can make security authorities look stupid or evil or both. To prevent such embarrassment, there is already a history of security authorities in various countries murdering people who have been wrongfully detained in order to avoid the embarrassment that releasing them would cause. With regard to soldiers and employees of the United States government, we don't know how many of the "deaths under questionable circumstances" fall into this category, but we do have before us alarming examples of falsified death certificates⁶ and the destruction of evidence.

The TV show "24" shows Jack Bauer ordering the apparent execution of a terror suspect's children. There is nothing in our current "desperate fear justifies anything" reasoning to prevent this from actually happening. In fact, we are not as far away from involving detainee's children as we might like to imagine ourselves. In order to get the Iraqi General Abed Mowhoush to surrender, the United States kidnapped his two sons. General Mowhoush then turned himself in on November, 10, 2003, hoping to gain the release of his sons. He was suffocated to death by his U.S. Army captors on November 26th, in the course of interrogation after two weeks of beatings and questioning.⁷ In the case of Khalid Sheikh Mohammed, suspected of planning the 9/11 attacks, the CIA abducted his two young sons, ages seven and nine and later stated that custody of his children would be helpful in "breaking" him.⁸ One wonders what threats against the children the CIA was contemplating in order to "break" the parent. And in order for threats against children to be effective, some of them would have to be carried out. So, in addition to secret prisons and hidden executions, the path of torture leads us toward the torturing or killing of children (a practice which actually took place during the 1970s dictatorship years in Argentina⁹).

If it is true that our ordinary rules of law are in conflict with the needs of a new form of war, as John Yoo, the architect of the now infamous torture memos, asserts, then we need to have a careful discussion about what to do, not simply, as he suggests, abandon our long

cherished rules of law and hope that we will get them back some day after the war is over.¹⁰

2. Torture is contagious.

Five identifiable forms of “Torture Creep.”

People may imagine that we can torture a few terror suspects and not have our entire political system and psychological equilibrium overwhelmed. But that, it seems to me, is an unrealistically hopeful view of our situation. Recent experience suggests that torture in both the psyche and the body politic behaves something like a malignant disease. There are at least five ways in which it is difficult to contain the spread of its toxic side effects.

The physical intensity of torture increases, leading to the murder of suspects. The first form of Torture Creep concerns the tendency of torture to escalate toward murder. Many suspects will not be able to divulge the needed information because they simply do not have the needed information. This will result in increasing force being applied to the suspects, partly in the hope of gaining the desired information and partly to fight off the nagging doubts in the minds of the torturers as to whether they have captured a real terrorist. Military analysts use the term “force drift” to describe this tendency to increase the amount of force applied. At some point the force applied will be too much and the suspect will die. At other points in this article I have made reference to the deaths in custody of US-held prisoners. Here we might also consider that the Israeli definition of “moderate physical pressure” allowable under interrogation includes shaking, a seemingly innocuous term, but a practice vulnerable to the escalation of force. (Violent shaking can cause brain damage and death, and is the cause of death of more than a thousand children a year in the United States, who are shaken with too much force by their momentarily enraged parents.) According to the report of Alexander Cockburn, shaking has been the cause of death of more than one Palestinian in Israeli custody.¹¹ Another aspect of the escalation of physical force in torture, from my point of view, is that there is a perverse incentive to torture a suspect to death while insisting that the suspect is a real terrorist, rather than admit to one’s colleagues and superiors that one may have captured and tortured the wrong person.

Torture spreads horizontally within and across institutions. The practice of torture gives some individuals and agencies of government God-like, unlimited, powers of life, death and punishment over prisoners. The intoxication, both in the sense of being giddy and also in the sense of being poisoned, that comes from such unlimited power is extremely difficult to control. Torture represents “breaking” the both the body and will of the victim,

but torture also represents a significant breaking of established patterns of professional discipline and self-restraint, a breakdown in customs of order, and a violation of the previously established boundaries of human bodies and human behavior. The experience of inflicting extreme violence on another human being can bring the vivid, hypnotic and addictive illusion that one is accomplishing something terribly important in the defense of one's country, when in most cases one is merely inflicting terrible pain on another human being and moral degradation on oneself and one's country. ***To justify the pain I have already wrongfully inflicted on my randomly collected suspects, I must torture again and again, with techniques even more painful and fiendish, until the secret plot is finally revealed, my country is saved, and I am proven to be a hero and not a criminal madman!*** (An American intelligence officer remarked to a Red Cross inspector that ninety percent of the prisoners at Abu Ghraib did not belong there, had no information to give. We do not know how many of them were tortured or even killed under interrogation. There is one photograph in the Abu Ghraib archive of U.S. soldiers posing over the dead body of a prisoner.) Torture's hypnotic illusion of extreme power and efficacy (thinking you are saving the world when all you are doing is wrecking someone's life) can spread like wildfire among demoralized troops and frightened government officials.

The Israeli experience was that torture (extreme interrogation methods) could not be contained. Once you allowed it anywhere in an organization, the Israelis concluded, it would spread. That has already been the American experience as well, as extreme practices migrated from Guantanamo to Afghanistan to Iraq. Notice that the practice of torture is spreading as an ideology, also. It has created an active "torture faction" in US politics, led informally by Dick Cheney and Rush Limbaugh, suggesting that the consent to the practice of torture may become a permanent landmark on the American cultural horizon. Americans are being actively invited to join this "party of torture" by affirming that torture is necessary, by affirming that torture has kept us safe, and by affirming that torture is not a violation of everything we've ever believed in.

The list of justifications and legitimizing circumstances for torture grows. A third example of Torture Creep concerns the insidious, gradual widening of the range of situations in which authorities see torture as justified. Most discussions of torture focus on the dramatic, but highly improbable and implausible, "ticking time bomb" scenario. In this scenario thousands, perhaps even millions, of innocent people are in danger from a ticking time bomb (nuclear weapons are the favored example). Authorities are certain that the person they have detained knows where the bomb is hidden and how to defuse it. (No one explains how the authorities learned so much about the detainee without also stopping his

evil plan.) And finally, torture is the only way to extract the information from the prisoner in time to save the people. Repeating this hypothetical example over and over again gives us the impression that torture will only be used in such dire emergencies: to prevent an attack, when authorities are certain they have the right person, and know that only torture will work.

But actual practice is worlds away from all three elements of this idealized storyline. For example, Dilawar and Habibullah were tortured to death *after* a mortar attack on an American base in Afghanistan, as part of an open ended “fishing expedition” for battlefield information. It later came to light that they were innocents pointed out to the Americans by a Taliban double agent, who himself was later arrested. (So much for being certain that the person you are hurting is the right person.) Notice that in just a year the list of acceptable torture situations had expanded from sudden threats of mass murder of civilians to the needs everyday war fighting: “finding out who did it so we can stop them from doing it again.”

The situations justifying torture expanded again between 2002 and 2006, it was revealed in recent U.S. Senate reports. Prisoners in various locations were tortured in the hope of making them confess that Saddam Hussein had cooperated with Al Qaeda in the years before the Iraq war (an allegation for which there is no evidence, but one used repeatedly to justify the war). So at that point the justifications of torture that the government was allowing itself had grown again, now to include generating believable lies that would protect government officials from embarrassment. We might call this the “every loophole will be widened into a floodgate” principle. The need to restrain this tendency is evident in the wording of Article 2 of the United Nations Convention Against Torture (which the United States ratified in 1994):

“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.”¹²

One final example of the spread of torture justifications concerns the term, “suspect.” When people recite the ticking time bomb scenario,¹³ it is always taken for granted that we know with a high degree of certainty that the person being interrogated has the secret we are looking for. But this is a television show fantasy. In actual practice, the people who are interrogated are “suspects,” which, when you think about it, is actually a defensive way of admitting we do not know whether we have gotten the right person. “Better that ten guilty persons escape than that one innocent suffer,” has been a long-standing principle of

English law, and then American law, reaching back centuries. This represents our vision of and commitment to fairness, and it is part of the culture of legal restraint that makes a constitution like ours possible. In allowing the torture or indefinite imprisonment of people who are merely suspects, we are giving up our most cherished ideals of fairness. Professor Alan Dersowitz's defense of the practice of torture, that "It works sometimes,"¹⁴ is an inadvertent admission that we know we are going to be injuring the wrong people at least some of the time, perhaps much of the time, and thus we are committing ourselves to injuring, and perhaps even killing, innocent people. *I am convinced the practice of torture will guarantee that people who were merely suspects, or their outraged families, will become actual dangerous enemies.* All these people who are now dangerous enemies will then need to be preventively detained, preferably in total isolation so that they do not keep plotting against us. And that will create an even wider circle of enemies, who also need to be imprisoned and tortured to find out what *they* are planning. In recent history we have more than a few examples of self-exacerbating, spiraling out of control, torture-murder processes, so we know that this is not just a theoretical worry. These include the Soviet terror of 1936-1938, the killing fields of Cambodia, and the Argentine "dirty war" against alleged communists, the latter including a widening spiral of torture-extracted confessions naming others, and the subsequent torture and murder of all those named, and on and on. It is not clear that either torture or preventive detention can ever be restricted to only real enemies. We need to take some deep breaths and think more clearly about the circular logic of tragedy we are setting in motion.

The moral breakdown of torture spreads across different professions. A fourth area in which we can observe the contagion of torture concerns the role of professions in society, and especially the medical profession's commitment and oath "to do no harm." Part of civilized life consists of relying on highly trained individuals to be thoughtful, careful, compassionate and law-abiding. The torture issue has now influenced and implicated, and some would say compromised, lawyers,¹⁵ doctors,¹⁶ psychologists and military officers in the United States. Doctors, psychologists and lawyers have been recruited, in different roles, to facilitate interrogation sessions that include torture, and some doctors have been involved in covering up torture by falsifying the death certificates of prisoners who died under interrogation. To their great credit, many military officers have fought against Torture Creep, however their efforts have been outmaneuvered by the outsourcing of torture activities to private contractors and the promotion of officers who would carry out the illegal orders of their superiors. Private contractors are outside the reach of military law and outside the reach of the US military's version of the Golden Rule as it applies to

prisoners of war: don't do it to their guys if you would not want them to do it to our guys. Military officers have been implicated in violating the most basic principles of military law and trials, by deciding, for example, that a particular terror suspect would be convicted no matter what evidence and arguments were presented on his behalf. Torture deforms everything and everyone it touches.

In recent years there have been intense discussions in professional associations about doctors and psychologists participating in interrogation, with strong lobbying from military intelligence agencies to soften any condemnation of torture.¹⁷ In 2008, the members of the American Psychological Association finally voted to support a strong resolution against torture, but the resolution passed with only 60% of the vote. (Of the approximately 6000 psychologists who did not support the resolution, we do not know how many actively support torture, how many imagine that they might be able to protect torture victims, and how many work for the military as highly paid consultants.) Pressed to explain his participation in what may have been torture, one psychologist excused himself by saying that “the detainees were not my clients, the American people were my clients and I was trying to protect them.” This, I suggest, is an extremely narrow view of professional responsibilities, one that could easily justify any professional becoming a paid torturer. To their credit, both the American Medical Association and American Psychiatric Association have guidelines that forbid physicians from participating in torture, but it is not clear how well or how extensively these guidelines are enforced.

Torture encourages the spread of the “secrecy zone” in society. The fifth form of Torture Creep concerns the widening area of public life which is no longer available for public discussion. Democracy is based on the idea that the people guide the actions that government takes on their behalf, based on education, public discussion and vigorous debate. Openness in government is a cherished principle of American life, embodied in many laws that require the meetings of public agencies to open to the public. But the people can't guide the actions of their government if they are forbidden to know what those actions are. The accommodations that democracy makes for wartime secrecy are always in danger of becoming institutionalized, and cutting the ground out from under the democracy that the war was supposed to defend. In the trials of terror suspects, it has already been argued that the terror suspects may not testify in open court about what forms of torture may have been inflicted upon them, because that testimony would alert our enemies to our secret torture methods and thus allow them to resist more successfully. The problem with this, as the Abu Ghraib photos show, is that secrecy creates a space in which abominations may flourish, and we, the members of the public who are shut out from knowing what was

going on, will eventually pay the price for those abominations. We know less and less, and yet we become responsible for more and more. It is an open question in my mind as to how much secrecy any democracy (and any society, as well) can tolerate before it collapses, since secrecy is used so often to conceal embarrassing mistakes, and a society that hides from its mistakes will never correct them.

Summary: Reflecting on Torture Creep. These five forms of Torture Creep: 1) increasing physical intensity leading to murder, 2) spreading inside and across institutions, 3) widening the range of acceptable justifications, 4) implicating American professions, and 5) threatening our democracy by enlarging the secrecy zone, form, in my view, really good reasons for opposing torture under all circumstances.

Similar arguments can be made against the fear-based imprisonment that has been newly renamed indefinite preventive detention. The practice of locking people up based on vague suspicion tends to develop a perverse momentum of its own. Experience at Guantanamo and Abu Ghraib showed that it was much easier to incarcerate people than it was to set them free, even when they had been found innocent by courts or the detaining authorities.¹⁸ Left unopposed, we have no idea how far into our lives these kinds of processes will reach. Did we win the Cold War only to become like the Soviet Union, in which one could be imprisoned simply by being branded an “enemy of the people” by an anonymous accuser? The answer is up to us.

Over the years, there have already been instances of torture and murder in US. law enforcement institutions,¹⁹ so we know that we are not immune to the spread of torture to domestic institutions. The struggle with terrorists around the world is not only a military struggle. It is also a struggle between the culture of dictatorship and coercion, one the one hand, and the culture of dialogue, cooperation and orderly deliberation on the other. Torture is terror in a locked room. Indefinite preventive detention represents the obliteration of one person’s rights and life by an all-powerful state. If we accept torture and fear-based imprisonment, our enemies will have converted us to their ways, and we will have lost “the war on terror.”

3. Torture as bad strategy.

How safe can torture keep us?

Even if torture appears to work every now and then to produce important information, that does not constitute a good argument for adopting the practice. It is worth remembering that in World War II, the German armed forces practiced torture, preventive detention and

mass murder, but lost the war anyway. That should warn us that extreme practices, no matter how powerful they may make us feel, are not “magic bullets” that will make up for all our other strategic shortcomings (such as having no people on staff who speak the languages of the country we are going to invade, etc.). Here are seven strategic doubts about interrogation by torture:

Incurring unknown opportunity costs. We do not know what cooperation we are giving up, when we give up on traditional rapport-building interrogation methods. There is a lot of evidence from World War II to the effect that torture is both unnecessary and counterproductive, that rapport-building interrogation produces better information.

Endangering our own troops. To the degree that we become known for torturing, we endanger the lives of our own soldiers, since whatever justifications we offer for our practice of torture can easily be adopted by our enemies to justify the torture of captured American troops. This represents what has been called in other contexts, “a race to the bottom.” The potential danger that the practice of torture presents to our own troops is a point often made by our own military officers. We lose our ability to appeal to the Geneva Conventions for the protection of our own soldiers.

Inspiring our enemies to fight to the death rather than surrender. In both the practice of torture and the practice of indefinite detention, we embolden all our enemies to fight to the death, because there is no longer any point in surrendering. In World War II, many enemy soldiers surrendered to Allied forces because they trusted that they would be treated humanely. As Karen J. Greenberg writes:

According to Eisenhower, the fact that the US military was known not to abuse prisoners contributed greatly to hastening the end of the war in the European theater; Nazis were willing to turn themselves in to the Allied forces and brought with them information that played an important role in ending the war.²⁰

At the present time that trust is gone but in my view it might be gradually renewed if the United States were to make a new, very public, and verifiable, commitment to the Geneva Conventions.

Making new enemies. Giving up torture will probably not sway any of our current enemies, but becoming known as a state that defends itself by torture and fear-based imprisonment is a great way of making tens of millions of new enemies. Because the practice of torturing “suspects” inevitably involves hurting many innocent people in the hope of eventually extracting information from a few guilty ones, the practice of torture is

doomed to produce more enemies (all the families and friends of those unjustly injured) than it disarms or eliminates. The practice of indefinite preventive detention for people who are not U.S. citizens implies that the ninety-five percent of the world's population who are not American citizens have no rights whatsoever and are not worthy of the rights we grant ourselves. It is hard to see how anyone will ally themselves with us, or help us in our hour of great need, if we treat them with such withering condescension.

Producing bad information. The torture victim has a powerful motivation to say whatever he or she imagines the torturers want to hear, or would be willing to believe, even if it brings only a temporary interruption in process of being tortured. Security forces are then diverted from responding to real threats and become bogged down trying to disrupt nonexistent plots. At a recent conference I attended, a former Army interrogator related an incident in which a suspect pretended to resist the torture being inflicted upon him by his American captors, and then finally pretended to break down, blurting out many names of "terrorists." These "terrorists" were all of his family's rivals and enemies in his home village, not Al Qaeda members. But the Army didn't know that and imprisoned all of them. I believe that this sort of counter-strategizing is well within the reach of any beginning chess player.

Increasing the will to mislead. If the torture victim is in fact a combatant of some sort, then he or she probably expects to be killed. Misleading one's enemies by giving false information would represent a final act of resistance, and being on the receiving end of torture would increase the victims' hatred of their captors and the victims' determination to fight back by misleading their captors. An actual terrorist who was being tortured in the much cited "ticking time bomb" scenario could probably defeat his torturers by preparing for the eventuality of being tortured, just U.S. troops prepare. He could go on his mission already prepared with an elaborately concocted false story, with fake evidence planted in advance. If he were captured, he would then resist the torture as long as he possibly could, and then blurt out the false story. By the time the security authorities finished checking out the elaborate false story and the fake evidence, the ticking time bomb would have exploded.

Buried rages make bad strategy. None of the above suggest to me that torture or unlimited preventive detention are good strategies for either gathering information or staying safe. I have begun to wonder if torture is really about gathering information at all, or whether torture interrogations might be a kind of secret practice of revenge and a way of assuaging unexamined feelings of rage, fear, grief, frustration and powerlessness. ***How***

dare anyone hurt us! We will hurt somebody back, really bad, to show the world that we are powerful, even if it means hurting someone who had nothing to do with the injury that was inflicted upon us. To the degree that we are nursing secret rages, we will be attracted to the practice of torture beyond any real consideration of its military usefulness. And to the degree that we carry a large amount of unresolved grief (in a culture that validates violence), we will never be able to torture enough people, we will never be satisfied. The torture victim cries the uncried tears of the torturer, but they are never enough.

As they were being kicked to death by their uniformed American interrogators, Dilawar and Habibullah may have simply represented the wretched Afghanistan to which the soldiers had been sent, and in which their comrades had died. We should not elevate these instances of human desperation to the level of strategy. These failures may deserve our compassion, but they certainly do not represent some new organizing principle of strategy to which we should give our consent and approval. This is video game thinking, or street gang thinking: “if you are mean enough no one will mess with you,” or alternatively, “this will really teach them a lesson.” Even on the street, being mean guarantees nothing in the long run, because the meaner you are, the more you tutor your enemies in meanness and steel their wills to resist you. What is lost from view in all this rage-fueled revenge and assertion of power is the high probability of downward spirals. Gandhi said, “an eye for an eye leaves everyone blind.” Not, I would add, safe.

4. Torture as a step toward society-wide mental breakdown.

There are significant problems in the practice of torture for the people who do the torturing and the country that allows the torturing. If an American soldier were captured, and tortured by his captors in the course of interrogation, Americans would be outraged, even if the torturers, once brought to trial, argued that they sincerely believed they were defending their country from an imminent threat. We Americans would probably describe such torture as an act of total evil, cowardice, morally unredeemable, a violation of every concept of human dignity and human decency. As John McCain observed, after World War II the United States executed Japanese officers who had waterboarded American prisoners of war. Similarly, the idea of the indefinite imprisonment of American troops can drive Americans into a desperate fury. Such was the public response to underground news stories that circulated in the 1970s and 80s alleging that North Vietnam had not released all the American POWs at the end of the Vietnam war. The idea that American POWs might

be rotting away somewhere in hidden prison camps drove the participants in the POW/MIA movement to strenuous efforts to find them and intense denunciations of their alleged captors .

And yet now we ourselves allow such acts of torture and life-long imprisonment without trial, as long as they are done to someone else. The psychological problem here is that we have now divided our own minds into two compartments, a compartment that vigorously criticizes torture and indefinite detention when other people do it, and a compartment that defends these practices when we do them. With regard to the torture and fear-based imprisonment issues, we can't possibly justify doing to other people what we would consider an abomination if done to us without giving up some degree of inner coherence.

A mind thus compartmentalized is a mind moving toward mental illness and moral breakdown. I use the word mental illness because our mental health depends on an ongoing connection and harmony between our thoughts, feelings and self-image, on the one hand, and our actions, on the other. The more disconnected these four get, the more mental trouble we are in. At the core of a normal person's sense of self are thoughts and feelings about being a good person (self-esteem) and about being able to help or protect others (agency). Causing, allowing and/or witnessing intense pain or the death of another assaults these core elements, whether we are talking about combat or torture. People who do not react to these extreme situations, such as serial murderers, are considered to have profound personality disorders. Both war and torture-in-the-name-of-national-security bring such issues into the everyday life of citizens.²¹ Here are six vulnerabilities toward mental illness that I see as implicit in supporting torture.

Retreating from the life of independent reason and feeling. One way people cope with such intolerable contradictions among their own thoughts, feelings and actions is that they give up trying to be rational, they give up trying to be inwardly unified. One can do this by losing oneself in a powerful movement, full of marches and parades, or by giving oneself over to the service of a powerful leader, all to the effect that one is no longer aware of or responsible for the contradictions in one's life. This seems to be the situation in the case of the former Attorney General Alberto Gonzalez, who appears to have abandoned any independent sense of self or reason in order to do and say whatever was required of him (including justifying torture) by his powerful employers, the president and vice-president.²² Mr. Gonzalez's evasive, stonewalling testimony before a Senate committee, which I watched on television, had about it an eerie, detached quality that brings to mind

Hannah Arendt's phrase "the banality of evil."

Other high profile examples of abandoning one's own capacity to reason can be found in the refusal of government officials such as Attorney General Michael Mukasey²³ and Brigadier General Thomas W. Hartmann (the legal adviser at Guantánamo Bay)²⁴ to admit that waterboarding constitutes torture, in spite of centuries of evidence and the fact that the United States had, after World War II, tried and punished Japanese soldiers who had waterboarded American prisoners of war. It is as though the extreme violence of torture evokes extreme levels of disorientation, conformity, self-abasement and self-abandonment on the part of witnesses and facilitators. There are many recent historical examples of docile and mindless collaboration with atrocities (including lawyers who were willing to twist words to mean anything that the people in power wanted, and jurists who were willing to reach any verdict required of them). Nazi Germany, the Cambodian killing fields, Argentina's "dirty war," the Rwandan genocide and the Jim Jones mass murder/suicide in Guyana come to mind. Unfortunately, in US efforts to build a secret, meticulously reasoned legal framework for the insanity of torture and fear-based imprisonment, we Americans seem to be well on our way to adding ourselves to this list, as Karen Greenberg has documented in two books and many articles.²⁵ To our credit, at least, there has been significant resistance among military officers and officials to the push toward torture, for example the courageous stand of Alberto Mora, who was for a time the General Counsel of the United States Navy.²⁶ The psychoanalyst Arno Gruen, in his book, *The Insanity of Normality*, explores the intertwining of violence and conformity into a common, but not socially acknowledged, form of mental illness that passes in everyday life for ruthless obedience and efficiency.²⁷

Defending against one's own knowledge with mantra-like slogans and denials. In other instances people retreat from intolerable contradictions, or feelings of guilt and powerlessness, into simple, primitive but unreliable, formulaic thinking, such as "anything is okay if it protects my tribe." These slogans mask our deep uncertainties and ambivalences. What we are really saying is "anything is okay if some powerful person persuades us all that it will protect our tribe, and that person will allow us to hide from the ugly details," a relinquishing of our autonomy and personal responsibility. "Do anything, just don't tell me about it," represents a significant retreat from full personhood, a desire to will oneself back into ignorant and innocent childhood. But it is psychologically impossible for us to escape from our adult knowledge of, and our gnawing doubts about, what may have been done on our behalf. The person who shouts, "I don't want to think about it!" has already thought about it.

From an emotional perspective, actions such as sticking sterile needles under someone's fingertips, an allegedly safe but horrific form of torture recommended by Professor Alan Dershowitz (in what I consider to be a moment of terrible confusion), or threatening to hurt someone's children, are never acceptable, no matter what temporary advantage they might seem to offer. Setting aside for a moment all thoughts of morality and speaking only psychologically, such acts are not acceptable because we will never really be able to live with the memory of what we have done, or allowed to be done on our behalf. If we allow these things to be done, we will spend a significant part of the rest of our lives preoccupied with trying to blot out or justify what some part of us knows to be unjustifiable. We may fear, also, for the rest of our lives and perhaps with some justification, that someone will eventually do to us what we have already done, or allowed to be done, to others. Those who come after us will carry the legacy of our commission of the unthinkable on others, contaminating our sense of legacy to future generations.

Escaping from intolerable contradictions by self-numbing and/or suicide. A third response to inner conflict between one's values and self-image, and one's actions, is to try to stop feeling altogether. The motto of the SS troops in the Third Reich was not "to have nerves of steel," it was to have "no nerves at all." If you had no feelings at all, you could kill or torture people all day long and it wouldn't bother you. One has to stand back and look at a person's life over a number of years to realize what a profound self-mutilation it is to try to stop feeling the natural response of compassion for the pain of others. No matter how hard we try to shut them out, though, our feelings and forbidden memories will eventually come back, always exacting some vengeance, sometimes exacting a terrible vengeance. I am thinking now of the soldiers who come home from war and then commit suicide,²⁸ sometimes killing their spouses or families as well.²⁹ America is now witnessing the return of many Iraq war veterans who are burdened with the memories of the pain they have caused. And as for ordinary citizens, one must ask, how much of our personal aliveness will we have to blot out in order to blot out the knowledge of the harm we have allowed?

In the case of U.S. Army Specialist Alyssa Peterson³⁰, I believe that the inner conflict between her conscience and the team she had pledged to serve was more than she could bear. In September of 2003, a few days after refusing to participate in torture sessions in Tal Afar, Iraq, she took her own life. At some level she probably understood everything that I have written in this article, much better than I do, but there was no support in her world at that moment to have such understandings. The external orientation toward life focuses on whether something is legal, whether we can get away with. But the life of the

psyche is internal, and the question it asks is not, can I get away with it?, but rather, can I live with myself?, and at that point, she could not. Perhaps her tragic act of conscience, made in desperate circumstances, may inspire us, not living in such desperate circumstances, to take up the issue that was her undoing, and carry it forward with patient, compassionate and determined acts of conscience.

Being swept along in the momentum of violent bureaucracies. A fourth vulnerability to madness in the inflicting of torture and preventive detention concerns the capacity of large organizations to create the situations they fear, and drag their members along. Here we are talking about a societal form of madness, but one just as capable of destroying people's lives as individual psychosis. Perhaps the largest example of this that we are ready to acknowledge is World War One. In the months before World War One began, each of the great powers in Europe, fearful of being attacked, began mobilizing its armed forces. And each country interpreted the mobilizations of potentially hostile countries as a threat of imminent attack. Caught in this self-reinforcing spiral, Europe stumbled into a giant war that had no real justification; 16.5 million people died and another 21 million were wounded, costs catastrophically out of proportion to any of the conflicting interests of the nations involved. An example closer to home is the way that prisons in the United States have become large training institutions for criminal gangs; they are "correctional systems" that do not correct anything, that actually make things worse. These giant failures are then reframed as great successes, or at least necessary measures: World War One became known as "the Great War" rather than "the Monumental Blunder." The growing gang population, exacerbated by California prisons, is used to argue that California... needs more prisons!

The war-on-terror bureaucracies of torture and detention are prone to the same sort of self-amplifying processes. As mentioned in the beginning of this article, arguments are now circulating in Washington to the effect that even if some of the detainees at Guantánamo were not terrorists when we confined them, we have treated them so badly that they would become terrorists if we release them, therefore we can never let them go. This is an example of what one might call circular organizational insanity. And as we try to justify this unfair and unreasonable course of action as fair and reasonable, or alternatively as we try to blot it out of consciousness, we ourselves become contaminated by the fear and irrationality that gave birth to these actions in the first place.

One does not have to be a military genius to conclude that we have probably made deep enemies out the families and clans of the people we have confined without charge for

years at a time, released without explanation or apology, tortured, sexually humiliated and/or killed. Every American is being invited by the war and torture promoters to drown out our nagging doubts about all this with heroic stories of our brave troops and their noble sacrifices. We do have many noble troops, who have in fact made many very heroic sacrifices. But that will not undo our tragic mistakes, clarify our muddled policies, or ease the burden of what we secretly know about insane organizational momentum but don't want to think about. I am convinced that part of the reason Khalid Sheik Mohammed was waterboarded 183 times was that the people who were torturing him could not bear the thought that it was not working, that they had broken the law, violated our best traditions, and turned themselves into monsters, for nothing.

If we succumb to the temptation to try to rationalize the irrationality of our country's practice of torture and preventive detention, we will have damaged our own capacity to make sense out of our lives. If we accept the lies of others, we may gradually lose the ability to tell our own truth. Bureaucracies have a keen sense of survival and appearance, and are extraordinarily anxious to cover up their mistakes and implicate any witnesses. Every time we hear a government official use the phrase "enhanced interrogation techniques" instead of "torture by partial drowning," we are being invited to participate in our own mental cover up, a self-imposed brainwashing. A similar invitation-to-not-see was at work when President George W. Bush described the people who were doing the waterboarding as "our professionals." There are many problems with this. The one I want to emphasize here is that our own psychological survival and wellbeing require that we practice facing our problems rather than hiding from them. That puts our personal needs on a collision course with those of government agencies that want to portray themselves as wise, benevolent and never making mistakes, in spite of all the evidence to the contrary.

Flipping. In fighting terrorists, we are liable to concentrate on them and hate them with such intensity that we run the psychological risk of a kind of mental breakdown, a "cracking" or "flipping," in which our psyches are reshaped in the image of the hated other. A common tragic scenario in domestic violence is for a participant in a family conflict who thinks of himself as an unjustly treated good person in conflict with a totally bad person, to break down and kill his entire family, in effect becoming the total badness he had identified with the "other." Vice-President Cheney spoke in measured tones about "going over to the dark side" in order to fight the terrorists, implying that we would do whatever dirty deeds needed to be done. And in kidnapping (and threatening to injure?) the children of our enemies, as we have done in the case of Khalid Sheik Mohammad we do seem to have engaged in acts of evil, hoping that good would come from them (something that one of

our forefathers, William Penn, warned us against). The problem with “going over to the dark side” is that it is not so easy to get back. We may not come back as the same persons who left. The unexamined assumption in Mr. Cheney’s position is that we can either do these terrible things, or allow them to be done on our behalf, without being influenced as persons by the process; that we can terrify other human beings by partially drowning them, for example, without becoming terrorists ourselves in the process. I do not believe this assumption is true..

Familiarization and normalization of fear, suspicion and extreme behavior. The Roman philosopher Seneca once wrote that one cannot strike fear into the heart of another without becoming afraid oneself. Once we become accustomed to the idea of torture and preventive detention, extreme violations of human boundaries and human dignity, and give our consent to these practices in the name of keeping us safe, it could become easier and easier for someone to argue that we should inflict these on certain of our fellow U.S. citizens, who, after all, might be secret sympathizers with the terrorists. The fear that was previously reserved for terrorists might spread to a fear of everybody, as it was extended to all potential sympathizers, collaborators, fellow travellers, free thinkers, nonconformists, etc., in the anti-communist hysteria of the late 1940s and early 1950s. (The search for secret betrayers was also an animating theme of the Spanish Inquisition that gradually made everyone a suspect.) *In consenting to allow torture on our behalf, we are reinforcing, both inside of ourselves and outside of ourselves, our dominant cultural myth that violence will keep us safe and solve our problems.* We see this kind of paranoid venom already at work in the writings of authors like Ann Coulter, who believes that all liberals are traitors and should be shot. It is not clear whether Ms. Coulter is actually paranoid, or is simply pretending to be flagrantly paranoid in order to get lots of media attention. What is clear is that a steady diet of intense fear, suspicion and incitement to harm is bad for people, and will push some people over the edge into manifest insanity and actual acts of violence. The ongoing problem in the United States of the murder by crazed gunmen of postal employees, police officers, doctors who perform abortions, school children and former spouses shows that the issues of the normalization of extreme behavior and belief in violence are not just theoretical concerns.

Summary. Struggling to preserve our integrity as persons. Based on the psychological considerations I have introduced above, I cannot help but conclude that to the degree we accept torture being committed on our behalf, and to the degree that we accept locking up forever anyone whom the authorities fear, we will have suffered a serious, self-inflicted injury to our own sanity. We cannot describe ourselves as “safe” if

we have made ourselves emotionally dead enough inside to not feel the tragedy, insanity and ugliness of our predicament. That deadness itself is a kind of insanity. *I am convinced that whatever we inflict on others, we psychologically inflict upon ourselves. The kindness and care we extend toward others is the true life of the self.*

Conclusion. The Trouble with Torture...

In this article I have described four of the serious and interwoven drawbacks of torture and fear-based imprisonment/indefinite preventive detention.

- The practices of torture and fear-based imprisonment, by their grant of unlimited power to agents of the State, will if left unchecked turn any government into a military dictatorship.
- Once accepted in the most limited of contexts, the practices of torture and preventive detention will start to invade various institutions of a society and create their own expanding justifications and their own expanding necessity.
- Neither torture nor fear-based imprisonment can keep us safe, and are highly likely to create many more enemies than they thwart.
- Torture and fear-based imprisonment will eventually injure the minds and lives of those who practice, support and allow them.

Therefore, I suggest, if we are concerned about protecting our country and saving our sanity, we need to find strong, compassionate, and steady ways of inching back from this abyss of pain and confusion.

As I mentioned in the introduction to this article, somewhere around one-half of adult Americans support the torture of “terror suspects” (a label that could eventually be stretched to apply to anyone). Since indefinite preventive detention might appear to be slightly less extreme than torture, I imagine the percentages of support are similar or more. So the task facing the opponents of torture and fear-based imprisonment is not simply to convince policy makers in Washington, DC. We also have to convince our own neighbors that there is a better way.

Even in time of war, and perhaps especially in time of war, it is up to each person to keep supporting what is best in people, and to resist being swallowed up by what is worst. That is why I invite everyone to deepen their knowledge of and support for the Geneva

Conventions, and for the related treaties that taken together form what is now called International Humanitarian Law. The issue of prisoner abuse is not new. Until the 1860s and the first Geneva Convention, wounded enemy soldiers after a battle were killed by the victorious army, or were left to die of their wounds or be murdered and robbed by battlefield scavengers. Patient and determined people of conscience changed that.

There is a tendency to say that war is so terrible that there is no point in trying to clean it up around the edges. That attitude assumes that things cannot possibly get uglier than they are now. But history suggest both that things can always get much uglier, and that they can get better, too. Deep inside, most people know this, even people who believe in armies and wars. This margin of sanity is what has caused the United States to cooperate in the past with potential enemies in order to ban such things as poison gas (1928 and 1993), germ warfare (1928 and 1997), and laser blinding weapons (1995), and to limit the nuclear arms race.

Human beings are complex, such that areas of compassion and reason can coexist in the mind with areas of mindless fear and violence, which makes our situation both daunting and hopeful. For example, no one in America today is calling for the formation of a corps of American suicide bombers, in spite of the fact that suicide bombing has proven itself many times to be a powerful military tactic. And I doubt that anyone would be branded as weak-willed, a sissy, or “sympathetic to the enemy” if they opposed the adoption of suicide bombing as a tactic. Another example of the margin of sanity in human beings, even when at war, concerns the attitude toward deception in the law of war. In war it is acceptable to try to deceive your enemy by camouflaging yourself with leaves to look like a tree. But it is not acceptable to falsely wave the white flag of surrender and then shoot at the troops who come forward to accept your surrender. As frightened and confused as we may get, or as hardened by violence, some margin of sanity still operates within most people.

I see us as needing to encourage that margin of sanity in people today, in the following four ways:

- to build a new, stronger consensus against torture and for the Geneva Conventions and the growing body of International Humanitarian Law, including the study and reaffirmation of the Geneva Conventions by individuals, civic groups, schools and religious congregations, (furthering this end is the goal of www.SupportGenevaConventions.info)
- to renew our appreciation for and commitment to the limits of State power that are part of English and American law, especially as relates to imprisonment,

- to create a less belligerent, more helpful stance for the United States in the world, one not focused on fantasies of world domination, infinite revenge for 9/11, or impossible levels of security in a fundamentally insecure world. Over the past century the United States has often accomplished its belligerent goals in foreign lands by hiring local killers, such as the violent jihadists we hired in the 1980s to kill Russians in Afghanistan, who eventually morphed into Al Qaeda.³¹ However one may argue the rightness or wrongness of those actions in the early 1980s, the world is already far too small, too tightly knitted together, to allow such practices to continue. The bomb throwers we hire today in faraway places will arrive at our doorstep tomorrow. They will either do us great harm, or we will go bankrupt trying to keep them out.
- to deepen our commitment to living and teaching the skills of cooperation and conflict resolution at every level in our lives. Looked at in the few minutes before people start punching each other or shooting at each other, many conflicts may appear to be completely justified. But if one looks at conflicts over the years, or even decades, before they occurred, one sees that every conflict and war could be prevented if even one of the parties involved made real efforts to learn about conflict resolution and build cooperative relationships based on mutual respect. (Furthering this end is the goal of www.NewConversations.net.)

Without such efforts as outlined above to change our public consensus, our policies and our behavior, I have become convinced that the terror we inflict upon our enemies, under the sanitized names of enhanced interrogation techniques, indefinite preventive detention and preemptive self-defense, will become, faster than anyone can imagine, the terror we inflict upon ourselves and the terror that returns to us.

Dennis Rivers, MA, is a communication skills trainer, writer and human rights activist in the San Francisco Bay area. He holds degrees from UCLA, UC Santa Barbara, and the Vermont College Graduate Program. He edits several public service web sites including www.SupportGenevaConventions.info, www.NewConversations.net and www.LiberationTheology.org.

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