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Violence, Communication and Imagination

Pre-Modern, Totalitarian and Liberal-Democratic Torture

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This contribution examines the practice of torture from a comparative perspective and with regard to its communicative realization in public and related social imaginaries. Nowadays, at the beginning of the 21st century, a state will rarely call its own practices "torture", but that was not always the case. In European history torture has often been considered to be an integral part of judicial processes. It was only in the last 200 years that "torture" became a primarily negative concept, a label habitually applied to the actions of political opponents. While specific torture techniques traveled unseen between Liberal democracies as well as totalitarian states, their representatives accused each other publicly of using torture. The rising stigmatization of torture combined with its monitoring by politicians and NGOs forced the torture specialists, especially in democracies, to invent new stealth techniques. These penal practices, leaving literally no traces on human bodies, were quickly adapted by some totalitarian states and retain their significance in our time (see: Rejali 2007).

   How do we account for the communicative stigmatization of torture and its consequences? I will argue that we can only explain this transformation by referring to the changes in semantic structures and providing cultural explanations. The practice and prohibition of torture is regulated by the moral and cultural order of a society. This societal order is not only a complex of communicative actions, social norms or legal texts,

but also a social imaginary. The notion of the imaginary foundations of society goes back to Cornelius Castoriadis' *Imaginary Institution of Society* (1987), though I will be drawing primarily upon the concept of the social imaginary as outlined by Charles Taylor, who defines it as "the way ordinary people imagine their 'social' surroundings" (Taylor 2005: 23). Taylor conceives social imaginaries as a non-theoretical phenomena "carried in images, stories and legends" that are—in contrast to theories—"shared by large groups of people" or even "whole societies". Social imaginaries form the cultural background of a society as they enable "common practices and a widely shared sense of legitimacy". Not only physical practices like torture, but also communication is embedded in and legitimized by social imaginaries. The following study seeks to answer the following question: in what way is the historical change and the empirical variety of torture connected to the particular social imaginaries?

I will start with a brief historical and sociological account on some variations of torture from the Greek Antiquity to the early modernity in France. I will show that the different meanings and functions of torture can only be understood through their embedding in particular imaginations of truth, pain and social status. Not only the rise, but also the fall of torture (including its empirical decline and legal abolishment in the course of modernity) is connected to certain social imaginaries. Still, as we all know, torture didn't vanish with the rise of modernity, but merely changed its form. The rest of this study focuses on the similarities and differences of torture practices, communication on torture and related social imaginaries in totalitarian regimes and liberal democracies.

The second part will discuss the role of torture in the Stalinist show trials and purges as an example of totalitarian torture, whereas the third part focuses on the role of torture in the War on Terror as an example of liberal democratic torture. I will show that both cases differ significantly not only in regard to their imagining of torture, truth and state, but also in terms of communication strategies. The Soviet authorities used torture primarily against their own people, whereas the United States tortured almost exclusively non-Americans. The Soviet Union tried to produce false confessions, whereas the Americans wanted reliable information for intelligence purposes. Still, there are also striking similarities. Torture appears in both cases to be an appropriate reaction to a national crisis—in a double sense. The Stalinist excesses of violence are not only responses to the early failures of the Soviet Union, but have to be understood as social mechanisms that reproduce the

liminal structure of a revolutionary belief community (Riegel 1987). In a similar way should the use of torture in the War on Terror be regarded as a symbolic transgression in response to 9/11 (Holmes 2006), and not only as a rational instrument of counterterrorism. Far from being purely instrumental or even rational, the practice of torture allows the production and reproduction of certain social imaginaries.

Legal Torture in Pre- and Early Modern Times

Torture was widespread in many pre-modern societies, especially those with comparatively rationalized and elaborated legal systems. In respect to the legal use of torture, we have to distinguish between the judicial torture as a means of truth-seeking and the penal torture as corporeal punishment for the crimes committed. This chapter will focus primarily on the judicial torture, starting with its use among the old Greeks.

Basanos—Judicial Torture in Ancient Greece

In Greek, torture was called *basanos* which means "touchstone". This word originally referred to a dark-colored stone that was used to test the purity of gold. Later, the use of torture as a legal technique of truth-seeking was named after the stone. The possible subjects of torture in a Greek polis were defined by their social status; only slaves and in exceptional cases foreigners were tortured. Full citizens, for example, could demand the torture of a slave—of their own or of someone else—in order to proof their innocence before the court. The testimony of a tortured slave not only became equal to the evidence provided by free citizens (Peters 1985: 13), but even surpassed it (DuBois 1991: 65). The virtue of a citizen as someone who possesses reason becomes a vice before the court as it enables him to give false testimony—even under torture. Instead, a slave "recognizes reason without possessing it himself" and therefore his body "must be forced to utter the truth"(DuBois 1991: 66). Thus the body of a slave granted an immediate access to the truth without the reflection and possible distortion that accompanies the possession of reason. This truth extracted from the body could then be used as a piece of evidence in a judicial procedure.

Two aspects and corresponding functions of Greek torture can be distinguished. On the one hand, the use of torture was regulated by the hierarchical differentiation of society, on the other hand torture was

informed by a specific imagination of truth. Page DuBois argues that judicial torture became particularly important in the 5th century BC. At that time, the boundaries between free citizens and slaves became blurred and narratives of enslavement started to haunt the social imaginaries of the Greek city states (DuBois 1991: 63-64). Torture therefore served as a classificatory ritual reproducing the hierarchies between men and women, citizens and foreigners, Greeks and barbarians, free men and slaves. But that is only a half of the truth. The practice of *basanos* was also connected to the Greek concept of truth, *aletheia* that was linked to "hiddenness, secrecy, female potentiality, the tempting, enclosed interiority of the human body"(DuBois 1991: 91). Truth was a hidden secret that had to be wrested from the mere appearance of things.[1] In the case of torture, the truth was hidden in the body of the slave and had to be extracted by physical coercion.

In contrast to the Greek mainstream, Plato proposed a dialogical theory of truth that remained for a long time an elitist fantasy with little impact on the wider social imaginary. Some critics of torture also questioned the specific link between torture and truth. Aristotle remarked in his *Rhetoric* that people under torture's compulsion lie "as often as they tell the truth, sometimes persistently refusing to tell the truth, sometimes recklessly making a false charge in order to be let off sooner" (quoted in: DuBois 1991: 67). Later, the Romans incorporated *tortura* into their law built on similar premises. Again, torture against slaves was predominant, though later it was also applied to the full citizens of a lower social standing. The only difference to the Greek case is that the use of torture was restricted to criminal proceedings (Peters 1985: 20).

Catholicism and the Rise of Torture in Late Medieval Times

The systematic use of torture vanished with the fall of the Roman Empire. During the Dark Ages up to the 12th century, "irrational" legal practices such as ordeals (especially duels among conflicting parties) dominated Europe. But during the 12th century a "legal revolution" accompanied by a religious change took place (Peters 1985: 40-44). In 1215, the fourth *Consilium Lateranum* declared religious confession as mandatory for each Catholic once a year. A breach of this duty was in principle enough

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1 | Martin Heidegger adopts this Greek concept of truth in his *Being and Time* (§44). He translates *aletheia* as uncoveredness ("Unverborgenheit") and the pursuit of truth as a violent act of appropriation ("Raub"): "Das Seiende wird der Verborgenheit entrissen. Die jeweilige faktische Entdecktheit ist gleichsam immer ein Raub" (Heidegger 1986: 222).

to pass as a heretic. In the same period, the idea of the purgatory was penetrating the ordinary peoples' beliefs (Le Goff 1984). The purgatory moved later from the realm of popular imaginaries to the sphere of elite theology and was canonized in 1336 by the bull *Benedictus Deus*.

Also martyrdom as a testimony of religious truth and as a cultural pattern to follow played an important role for the rise of torture. Here, the late medieval reception of early Christian legends of martyrdom is of great interest (Schirrmeister 2000). The *Legenda Aurea*, a collection of Saints' lives published by the Dominican monk Jacobus de Voragine (1239-1298), became the most popular religious book—probably more widespread than the Bible. In medieval passion plays, the suffering of the Saints was reenacted for the purpose of remembrance and also as an encouragement to follow their example (Hammer 2009). This deep connection between torture, pain and religious truth was not only carried and reproduced by folk narratives and performances; it was also elaborated in contemporary systems of theology. According to the religious doctrine of the already mentioned Jacobus de Voragine (who was also a professor of theology), it was not the body itself, but its suffering that could bear witness to the truth (Schirrmeister 2000: 141). Legends about Saints and the institutionalization of the shrift provided a painful paradigm for confessions. The tales of suffering in the purgatory and lives of martyrs reveal the spiritual and moral value attributed to pain. Taking this cultural background into account, it is hardly surprising that torture was reintroduced in the 12th century.

In late medieval thinking, there was an analogy between shrift and torture, confessor and torturer. There is also a strong connection between torture and truth, though it differs from the Greek conception. In the medieval case, truth should not have been extracted but had to be rather spelled out by the victim. The tortured subject was not a neutral vehicle of truth (like a slave), but had to participate actively in the process of its revelation. And it has always been the body of the accused person that has been tortured—not the body of an innocent bystander. Also, the immortal soul of the perpetrator was at stake. His obdurate body had to be forced to speak truth for the sake of his own soul. We see that in contrast to the Greek and Roman antiquity where torture was used to attain evidence from a body as objective source beyond doubt, in Medieval Europe it enabled obtaining a confession from the alleged perpetrator. Unlike the Ancient Greek *basanos*—"the testing of gold"— medieval torture was not so much a technique of extracting truth as, in Foucault's words, "the ritual of producing truth" (Foucault 1979: 38).

Torture in Early Modernity and its Abolishment

The late medieval concept of torture outlasted the beginnings of modernity. From a procedural point of view, coerced confessions were simply indispensable (Langbein 2006). As long as it was impossible to convict people with indirect evidence, there were no functional equivalents to confessions. Only after a change in the imagination of truth rendered indirect evidence permissible, torture lost its medieval status as the "Queen of Proofs". Once the indirect proof was possible, torture was no longer needed and could—in principle—be abandoned. In order to account for this institutional change, we need to investigate the modern concept and imagination of truth. I will mention only two influential theories of truth that had profound impacts on the modern social imaginary: the deductive reasoning of Descartes and the empiricism of Bacon. Descartes founded modern philosophy on the principle of radical doubt and thus coined a new conception of truth that was incompatible with the confession as the queen of proofs. He also advocated a strict dualism of body and soul that cut the medieval bond between torture and truth. Bacon's idea of reading the world like a book was similarly influential. His understanding of truth not only paved the way to modern sciences, but also enabled changes in the legal system. Bacon's empiricism allowed the use of indirect evidence, thus fostering modern criminology and the success of the detective novel.

Michel Foucault's *Discipline and Punish*, as well as Lisa Silverman's study on torture in early modern France show that judicial (and penal) torture persisted for a long time in early modernity. Silverman analyzed the use of torture in the *Parlement* of Toulouse from 1600 to 1788, a time where torture was neither mandatory nor arbitrarily used in court. She explains the rise and decline of torture during that period by taking historical circumstances and shifting cultural patterns into account. Her book can partly be read as a refutation of Elain Scarry's unhistorical approach to torture in the *Body in Pain* (1985). Whereas Scarry starts from the anthropological assumption that pain is a pure negativity and the unmaking of the world, Silverman shows that the practice of torture was embedded in a social imaginary that was characterized by a "valorization of pain" (Silverman 2001: 111-130). During the period she researched, the religious life in Toulouse was dominated by lay confraternities that practiced flagellations. Silverman shows that there was a spiritual value attributed to pain that also affected the practice of torture. Though it is very likely that many judges were also part of confraterni-

ties that practiced the "self-torture" of flagellation, it is more important that the valorization of pain was shared by a wider audience. Silverman takes into account not only the imagination of pain but also the understanding of truth as existential knowledge inside the body. Pain and suffering were conceived as ways to gain access to an embodied truth—and to the sacred. The judicial discourse in early modern France was modeled upon the hegemonic religious discourse which remained quite similar up to late medieval times. Later, a reevaluation of pain led to the abandonment of torture. In the 18th century, the shared cultural framework that attributed positive meanings to the experience of pain ceased to exist; instead, suffering became an unnecessary and ultimate evil to be banished from the world.[2] Silverman emphasizes the influence of the medical discourse on the social imagination of pain, but also the impact of the scientific discourse on the understanding of truth (Silverman 2001: 133-152). Truth was no longer conceived as something buried in the body, but as something to be constructed. Cartesianism in philosophy and medicine conceptualized the body as a pure machine with no connection to the sacred.

Besides judicial torture employed to obtain legal truth, there was also penal torture as corporeal punishment and public spectacle. In Foucault's description of the death of Damien, we see torture as an instrument to inflict pain and cause death, but also as a political ritual of sovereignty (Foucault 1979). In late medieval as well as in early modern times, the body was the location of punishment. The body of the tortured was conceived as a reversed image of the political body of the king. Torture as a public ceremony and ritualized spectacle gives us a taste of the political function contemporary forms of torture assume: exercising torture means manifestation and inscription of the sovereign's power. According to Foucault, there was a penal revolution in the 18th century that not only led to the abandonment of ceremonial torture and public executions, but also to the birth of the prison. Foucault explains this revolution as a shift from the power of the sovereign to the more efficient disciplinary power. An alternative explanation is suggested by Philip Smith who argues that the unruly behavior of the crowd dis-

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2 | This change can be described as a shift from the positive to the negative transcendence (Giesen 2005). In this approach, pain is no longer a way to the positive transcendence of God but a secularized negative experience to be avoided at all costs. Not only was the purgatory banished by the Reformation, but also the Catholic Church recently reinterpreted this concept as a voluntary act of cleansing. The change in the imagination of the purgatory followed cultural changes in the evaluation of pain.

turbed the public performance of sovereignty and justice (Smith 2008: 34-56). Foucault describes the abandonment of torture and corporeal punishment as a disciplinary process that enhances the efficiency of the penal system.1 The body stops being a prison of the soul it was in medieval theology; instead, the soul becomes the prison of the body. Smith shows that this disciplinary process is connected to the broader modern narrative of rationalization (Smith 2008). We have to conceive rationalization and disenchantment as cultural patterns that inspired the charismatic movements of modernity. In the following chapter, we will turn to Soviet Union as a totalitarian state to discuss the outcomes of such a charismatic movement.

Soviet Totalitarian Torture in the Stalin Era

In the following chapter, I will focus on the role of torture in totalitarian regimes. However, a general discussion of totalitarian torture seems to be an impossible task given the diversity of totalitarianisms in terms of ideology and social imaginary. Therefore, I will restrict myself to the use of torture in the early days of the Soviet Union, in the Moscow show trials and the Great Terror, though these findings might not apply to other cases. Nevertheless, I will try to introduce a comparative dimension by discussing some crucial differences between Soviet communism and German fascism—as far as they concern both the imagination and the practice of torture.

Totalitarianisms and Torture

The huge differences among totalitarian regimes in terms of their dominant social imaginaries become obvious if we compare fascism and communism. Fascism is a counter-modern movement though its historical form was only possible in modernity. Communism, in contrast, has always presented itself as a genuine modern movement grounded in the "science" of political economy. Nevertheless, this self-description is rather deceiving. On the one hand, an important intellectual roots of modern communism was indeed Marxism, which Parsons described as "the extreme of rationalistic radicalism" (Parsons 1967: 119). On the other hand, every communist regime was also shaped by traditions, which in the case of the Soviet Union was the Orthodox religious background. It's also important to note that fascism stood on the side of pre-modern

particularism, whereas communism conceived itself as the champion of modern universalism. This ideological difference is reflected by the fact that fascist torture was less systematic and not so much in need of justification compared with Soviet torture. Philip Smith has shown that the codes of fascist discourses openly favored hierarchy over equality, emotional attachment over rational reasoning, exclusiveness over inclusiveness, power over law (Smith 1998: 127). The communist civil discourse had instead many codes with liberal democracies in common— for example, the public commitment to equality, reason, inclusiveness and legality. The code of law was particularly important in the communication of totalitarian systems, though it was often used as a disguise for political conflicts and the raw use of power. However, as far torture is concerned, communism and liberal democracy differ strongly in the way the relations of political community and individual person are imagined.

The liberal democratic imaginary is characterized by the belief in the sacredness of the individual, most notably in terms of his civil and human rights. Like National Socialism, early Marxism opposed the notion of universal human rights but did so for very different reasons. In National Socialism, not only racial differences overshadowed the idea of a shared humanity but also the very notion of universalism was rejected. Marxism, on the contrary, was from the very beginning concerned with the well-being of all human beings, though its priority was not the liberal pursuit of happiness but the liberation of mankind from alienation and poverty caused by the capitalist mode of production. Marx noted in *The Jewish Question* that civil and human rights are bourgeois since they reproduce the imagination of society consisting of atomized individuals, along with capitalism (Marx 1981: 347-370). In a true communism, according to Marx, the political and the societal community become one and the conception of human rights superfluous. Therefore, in communist regimes the individual person had to be subjected to the political community. The Marxists roots of the Soviet Union led to an official condemnation of human rights which persisted until after the Second World War when the Soviet authorities ratified the Declaration of Universal Human Rights. If we take this ideological background into account, we get an ambiguous picture of Soviet torture. On the one hand, the rule of law was official policy, so one should not have expected the judicial practice of torture. On the other hand, individual persons were clearly subjected to the political community, which might have facilitated the political uses of torture.

Coerced Confessions in the Moscow Show Trials (1936-38)

As already noted, the legal role of confessions, coerced or not, decreased with the rise of modernity. The Soviet Union was no exception: the use of torture was prohibited as an unlawful practice, and its usefulness was deemed questionable (probably due to the scientific imagination of truth that has pervaded modern criminology). Still, the Soviet imaginary of objectivity was a very special variation on the theme of scientific truth. Andrej Vyshinsky, Stalin's legal expert and later Soviet foreign minister, claimed in his *Theory of Legal Proofs* that the application of the dialectic method enables the judge to grasp not only the abstract and formal truth of bourgeois law but also the concrete and material truth (Vyshinsky 1955: 231-232). Vyshinsky, who was also the mastermind behind the show trials of Moscow, criticized explicitly the idea of the confession as the ultimate evidence (Vyshinsky 1955: 276). He agreed with the much maligned bourgeois law that confessions had to be voluntary and that coerced testimonies possessed no legal value. He further argued that the Soviet system had no need for confession as evidence as long as other forms of evidence prooved the objective guilt of the accused. He stresses that other forms of evidence are a must and grants confession only a marginal significance. Still, according to Vyshinsky, confessions retained moral value and might have influenced judges' verdicts, even if the individual confession was irreparably subjective—in contrast to the objective truth established by the hard facts, which had some legal value as a witness account (Vyshinsky 1955: 276). How does this legal theory fit with the well-known practice of torture in the Soviet Union? Particularly during Stalin's purges, many party members became victims of imprisonment, torture and execution. I will try to give an answer to this question by addressing the role of torture in the Moscow show trials, the Great Terror and the trials against the Rightist-bloc.

The Moscow show trials usually refer to the legal proceedings against the Trotskyite-Zinovievite-bloc, charged by the chief prosecutor Vyshinsky for the murder of Sergei Kirov and the planned extermination of Soviet elites (see 1936). These charges blend the alleged traitors inside the party with other national and international enemies. The public confessions of the accused were used not only as subjective admissions of guilt but also as witness accounts necessary for incriminating others. Still, these witness accounts had to be backed by hard evidence proving involvement of the accused in counterrevolutionary activities. On February 24th, 1956, Nikita Khrushchev, the first secretary of Communist Party of Soviet Union, revealed in his famous speech at the XXth Party Congress

On Overcoming Personality Cult and Its Consequences that Kirov was murdered on behalf of Stalin, having stated further that the evidence in respective trials was faked and that the confessions were obtained by torture:

"Now, when the cases of some of these so-called "spies" and "saboteurs" were examined, it was found that all their cases were fabricated. The confessions of guilt of many of those arrested and charged with enemy activity were gained with the help of cruel and inhuman tortures" (Khrushchev 1956: 27).

These confessions were not used as proofs in a legal sense: the "objective" guilt of the accused was already established on the basis of fabricated evidence. However, their confessions had not only subjective or moral significance, but also public and political meanings for national and international audiences. Overall, these coerced confessions from the Stalin era bear only a superficial resemblance to the confessions in medieval times. The latter had been an integral part of the legal system, whereas the former were primarily used for propaganda reasons. The fact that most of these confessions were obtained by coercion had to be hidden from the public. First of all, the show trials contributed to the imagination of the Soviet state as threatened by internal and external enemies, the so called counterrevolutionary and bourgeois forces. In this context, the concept of the "enemy of the people" attributed by Khrushchev to Stalin (Khrushchev 1956: 14) plays an important role. Second, the public confessions demonstrated the Soviet rule of law and criminalistic expertise. Though the confessions were of legal value, they proved in the eye of the public, with the exception of some keen observers, that the Soviet prosecutors had access to the truth and an objective knowledge about these cases.[3]

Important for the broader social context of the show trials was the extraordinary role of self-criticism and confession of guilt in the public sphere of the Soviet Union (for the following see: Erren 2008). In the 1920s the victorious revolutionary party of the Bolsheviks faced a serious crisis splitting it into right and left factions. After an initial period of debates, dissent and crucial votes, political factions inside the party were forbidden and dissenters were turned into heretics. Under these conditions, public self-criticism and confessions evolved as mechanisms that

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3 | Large parts of international press were convinced of the lawfulness of the Moscow trials. Even NGO's like the *ligue des droits de l'homme* had the general impression that the trial was an "expression of justice itself". A counter-perception emerged only later (see: Schrader 1995: 36-38).

allowed dissenters to re-integrate themselves into the new party line. These public rituals strengthened the legitimacy of the party leadership and fostered the imagination of the party as a monolithic and unified bloc. By confessing one could show his unquestioned loyalty to the party which became the criteria of being a "true Bolshevik". Those who refused to capitulate, were declared to be counterrevolutionaries. Erren argues further that the Soviet culture of confessions was influenced by religious patterns of canonic truth, heresy and guilt (Erren 2008: 19, 85-86).[4] Self-criticism or *samokritika* emerged only in 1928 as a central concept in the Soviet public sphere, though it was retrospectively declared that it had always been a part of the Bolshevik tradition. This new culture of self-criticism spread to the factories, on wall newspapers, in academia and also played an important role in the purges of the thirties. Even Khrushchev himself adapted this model of self-criticism to debunk Stalin's personality, as well as to legitimize his own rule.

Torture in Gulags and during the Great Terror (1937-1938)

The use of torture in the Soviet Union was not restricted to the preparation for the show trials, but played an important role in the Soviet prison camps. In *Gulag Archipelago*, Aleksandr Solzhenitsyn remarked that torture had always been a common practice in Soviet Russia (Solzhenitsyn 2002). He argued further that torture had been rarely used to discover truth, obtain a confession or gain information. Instead, it served the psychological purpose of breaking individual's will. But the destruction of subjectivities, in its turn, played crucial role in formulating the "objective truth" of the regime. The case of the Katyn massacre and its cover-up shows that torture was also used to intimidate eyewitnesses whose accounts contradicted the official version of the Soviet government. This Polish case also shows that the Soviet Union practiced torture not only against their own citizens. They used torture against the populations of occupied territories too, for example in the prison camps of the SBZ, which later became the German Democratic Republic (Erler 1998: 178-179). The use of torture by the Soviet authorities remained for quite a

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4 | Other cultural sources from the Russian tradition are also important for the understanding of self-criticism as a part of a broader social imaginary—for example, the dialectics of guilt and confession in Dostoevsky's *Crime and Punishment*. Nevertheless, this moral stand was very alien to of Marxism. For this reason, some Bolsheviks condemned the rituals of confession as expressions of the "disdained Russian soul" and even feared the return of "Dostoevskian moods (*dostoevščina*)" (Erren 2008: 379).

long time a well-kept secret and a taboo topic in public communication. Thus communication on torture was confined to private stories, gossip and rumors.

Between 1928 and 1936, the so called *convoyeur* techniques—an array of clean torture methods hugely different from the whipping practices of the Czarist police—became part of the torture repertoire of the secret police in the Soviet Union, NKVD (Rejali 2007: 88). Key elements of the *convoyeur* techniques were sleep deprivation, relay interrogations and stress-inducing positions such as forced standing (*vystoika*) or forced sitting (*vysadka*):

"Living in an overcrowded, unsanitary prisons on meager rations was a torture in itself that broke many people. But often it was not enough to obtain confessions, so the NKVD turned to physical torture. There are many documents and published testimonies about this, Memoirs and archival documents show a gruesome picture of crimes committed in NKVD prisons. One of the most frequent forms of interrogation was the "conveyor" method, where several investigators took turns in the nonstop interrogation of a prisoner for several days without sleep, forcing the prisoner to stand or sit in uncomfortable positions. Often such conveyor interrogations involved beatings and other forms of torture" (Khlevniuk 2004: 151).

According to Darius Rejali, the Soviet torturers have not developed these techniques on their own but most likely learned them from the police systems of Western democracies. It is quite probable that some of the later NKVD torturers had been themselves subject to these tortures as socialist detainees in Western police stations and prisons. After World War II, these techniques spread further to the secret polices in the other countries of the Warsaw Pact.

During the so called Great Terror, from July 1937 to November 1938, hundreds of thousands of people were arrested, tortured and executed. The crucial document for the Great Terror was the order no. 00447 concerned with the persecution of "former kulaks, criminals, and other anti-Soviet elements" that also quantitatively defined the "contingents to be repressed" (see: Khlevniuk 2004: 145). The arrests and murders were based on quotas differing according to region and from group to group. These limits were consecutively raised—sometimes on request of the local governments, sometimes by the center in Moscow when they had the impression that the local government showed not enough engagement in the fulfillment of the plan. Initially, the execution of 75,950 and the imprisonment of 193,000 people was planned (Binner

et al. 2009: 45). At the end, more than 800,000 people died as a consequence of the Great Terror. There were two categories of people, on the one hand former "kulaks and other hostile elements" to be killed, on the other hand "criminals and less hostile elements" for imprisonment. These lists was extended on request to include diverse "hostile elements" such as priests and former members of anti-Bolshevik organizations. Many people from these categories were already registered as not allowed to vote (*lišency*), in particular the kulaks that were imprisoned and later released in the wake of the de-kulakization in the early thirties. This allowed the NKVD to arrest them easily and systematically; others were arrested because of denunciations or as the result of forced witness accounts. The most important legal institution in the Great Terror were the *troijki*, the committees consisting of three people, created during the de-kulakization in the early thirties, that were empowered to convict people outside of the court.

The coerced confessions obtained by torture were necessary to produce evidence against the arrested people in order to fulfill the quotas of killings and imprisonments. The prisoners were tortured until they signed fake documents (in some cases even blank sheets of paper) that suggested or proved their membership in a counterrevolutionary organization, thus creating the pretext for further interrogations (for examples see: Khlevniuk 2004: 156). The introduction of the "mass conveyor" sped up immensely the production of confessions. This particularities of the torture technique are disclosed in a report on the "illegal methods of investigation" in Turkmenia:

"For the mass conveyor, dozens of arrested people were lined up facing the wall in a special room. A designated person on duty for the conveyor prevented them from falling asleep or lying down until they agreed to give the testimony required by the investigator. The stubborn individuals under arrest were also subject to beating handcuffing or bonding. A large number of cases have been uncovered where the arrested were kept on the conveyor for thirty-forty days without sleep" (quoted from: Khlevniuk 2004: 158-159).

During the interrogations, beatings were quite common; many of them resulted in deaths. The existence of these murders has usually been concealed by faked death reports. Among the arrested and tortured were also women with babies, as well as foreign diplomats. The report claims that some interrogators boasted to be particularly cruel and therefore efficient:

"In the NKVD department of the Kerbinsk district, its chief, Lopukhov, and officer

Ovcharov systematically beat inmates on the conveyor. According to his own testimony, Ovcharov, while drunk, broke two stools over the heads of the prisoners, and within one hour made all fifteen people confess to espionage" (quoted from: Khlevniuk 2004: 159).

The conveyor technique was very effective in the mass production of confessions, but not particularly useful in intelligence gathering. In the first place, the extorted confessions were used to justify further arrests and interrogations. Their second use was providing witness reports and evidence against the other inmates, since the coerced confessions of the latter were not enough to convict the confessors. Along with deliberate denunciations, the non-voluntary witness reports played an important role in the trials against the so-called "hostile elements".

Whereas the manifest goal of the Great Terror was the repression of non-conformists, a rather latent function was the specification of an enemy image that was in danger of being unmasked as pure ideology (see: Binner et al. 2009: 377). One may also understand the Great Terror as a reaction towards the economic and political failures of Stalinism (Žižek 1999). Because the authority and truth of the party was beyond question, these failures had to be explained as acts of sabotage of political opponents. In order to rescue the party, scapegoats where needed.

The Great Terror stopped when Yezhov had to step back as chief of the NKVD. The state of exception was abandoned and "socialist legality" restored again, whereas the *troijka* and the NKVD became scapegoats for the excesses of violence that happened. The *troijka* were abolished; many members were convicted and sentenced to death as the former prosecutors became themselves victims of the system (Binner et al. 2009: 697-699). The NKVD was accused of using confessions as the solemn basis for convictions without substantiating the allegation with additional evidence, for faking evidence, for distorting testimonies and coercing false testimony (see: Binner et al. 2009: 481-482, 542ff.). Nevertheless, Stalin himself intervened in these investigations and accusations on behalf of the former torturers by defending the use of violence as legitimate in exceptional circumstances (for example against "enemies of the people"). He argued further that the Soviet Union cannot afford to dispose of torture when its enemies, the bourgeois intelligence agencies, have no such moral inhibitions (see: Binner et al. 2009: 515-516).

The Trials against Bukharin and Yezhov (1937-1940)

I will conclude the discussion of Soviet torture with the trials against the so-called "Rightist bloc" at the end of the thirties, restricting myself to the prominent cases against two old Bolsheviks, Bukharin and Yezhov. One may start with Yezhov, the commander of the Great Terror, who was arrested in April 1939. At the beginning of 1940 he confessed to be an English and Polish spy, though later he lwithdraw this confession in front of the USSR Supreme Court (Getty and Naumov 1999: 560-562). In this statement, to the court, he repudiated all the accusations against him, but remained nevertheless realistic about his conviction: "My fate is obvious". Quite probable that torture was used to obtain his first confession, in particular as he begs his prosecutors: "shoot me quietly, without tormenting".[5] Yezhov closes his statement with a last wish:

"I request that Stalin be informed that I have never in my political life deceived the party, a fact known to thousands of persons who know my honesty and modesty. I request that Stalin be informed that I am a victim of circumstances and nothing more, yet here enemies I have overlooked may have also a hand in this. Tell Stalin that I shall die with his name on my lips" (Getty and Naumov 1999: 562).

Till the very end, Yezhov was willing to believe that Stalin had nothing to do with the accusations against him and that his death would only serve his own enemies. Bukharin, who had been arrested in March 1937, began to confess three months thereafter, but was not so naïve. In contrast to Yezhov, he declared in a private letter to Stalin that he had no intention of recanting his confession in public, instead he pledged for a personal acknowledgement of his innocence (Getty and Naumov 1999: 556-560). How to account for this split between public confession and personal innocence? Here Žižek's illuminating interpretation of the letter may be helpful (Žižek 1999). Bukharin believed he was acting like a good Bolshevik in accordance to the code of communism by sacrificing his individual interest for the greater good of the party and the proletarian revolution. While accepting the "objective necessity" of his death, he still clung to his subjective innocence and personal truth, which was inacceptable for Stalin and the party. The subordination of the individual has to be complete, the sacrifice total and the official truth has to become the objective truth. As the truth of the party is only loosely connected to

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5 | Truth to be told, the word for torment used here, mucheniia, does not necessarily imply physical torture (cf. Getty and Naumov 1999: 562, fn.15).

a world of facts, the show trials contributed to a revision of history and to the imagination and construction of state power.[6]

How did Stalin survive these paranoid purges and violent excesses as a political leader? First of all, it seems that the people and the party readily accepted the Manichaean narrative offered as explanation. The never-ending revolution was conceived as a battle between good and evil, a drama with conspiracies, treason and acts of sabotage. But even considering the obvious mistakes and grave excesses, Stalin's position was pretty secure. He never appeared as the man in charge for these persecutions, but as someone who called publicly for moderation. Stalin also profited from a social imaginary going back to the Czarist times, namely the narrative of the "good king", who is surrounded by ill-willed counselors and betrayed by corrupt enforcers (see: Stölting 1997). Even Yezhov, who regarded himself as the victim of a conspiracy, explicitly exempted Stalin from his allegations.

National Socialist Torture

Let me briefly address the problem of Nazi torture. In comparison to Soviet torture, the practice of torture in the German National Socialism has striking differences. First of all, compared with the genocide of European Jews and Gypsies, political opponents and disabled persons, the Nazi government did not use torture proper systematically:

"The Nazis used torture primarily against individuals from whom they needed information, such as Resistance members, and against Jehovah's Witnesses, to force them to name other members of their religion. When information was not needed, the Nazis more often used mass killings and reprisals, instead of torture, to intimidate and control conquered people" (Einolf 2007: 111).

Apparently, the Nazi use of torture was practiced ad hoc and motivated by a situational information asymmetry, lacking ideological functions. According to Darius Rejali, there are two distinctive features of Nazi torture. On the hand, "German security services showed little interest in clean tortures"; on the other hand, these techniques had very little systematic coherence, but "varied from region to region" (Rejali 2007: 95). The Nazis often used overt violence like whipping and beatings in interrogations and before executions, which shows that they didn't care

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6 | The quintessence of this totalitarian imagination of torture is found in Orwell's *1984*. Here, torture is revealed as the core of the totalitarian state, a practice revealing its absolute power and sovereign truth.

about leaving traces.[7] We can also add that "German people" as defined in Nazi racial terms—had little to fear from the Nazi Regime if they were not active in the political opposition to the regime (as, for example, Communists were). This circumstance has its roots both in the particularism of the Nazi ideology and in its racist imaginary: fragmentary thinking diminished the importance of truth, an essentially universal concept, and the definition of enemy was constructed first and foremost along racial lines. All in all, National Socialism was not so much in need of establishing an official truth in the Soviet sense. The relation of torture and truth was more about information than about ideology—which is also the case in the liberal-democratic society to which we turn now.

Liberal-Democratic Torture in the American War on Terror

Liberal-democracies differ from totalitarian regimes in many respects. Most important is probably the existence of an autonomous public sphere and the protection of individuals from the state by the rule of law—not only in political theory but also in practice. Still, the rights of individuals were first of all conceived as civil rights and not necessarily as human rights. The discourse of civil society distinguishes sharply between citizens and enemies (Alexander 1998); if torture is to be applied, it is generally used against "enemies" and "aliens" (see: Einolf 2007). The case in point is the use of torture in Algiers by the French—a colonial exercise of power in a liberation war against an enemy that was considered a different "specie". Colonialism shares a certain racist ideology with the Nazi Government, even if it differs in other aspects. Jaques Massu, commander of the French troops in Algiers in 1957, gave name and birth to the concept of *massuisme*—the justification of torture as a counter-terrorist measure in exceptional circumstances. We will see that this is a typical pattern of justification in liberal democracies: the United States used a similar argument in the War on Terror, which will be discussed as a case study of liberal-democratic torture.

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7 | For an overview on the use of torture in Nazi Germany and the Nazi-occupied Europe see Rejali (2007: 91-107). He points out that the most refined torture techniques—such as the "bath tub" or electric torture—where only found in the occupied France and actually borrowed from the French penal tradition.

The Academic Torture Debate after 9/11

In order to understand the possibilities and the dilemmas of liberal-democratic torture, it is helpful to take a look at the recent debates. Steven Lukes argued in his article *Liberal Democratic Torture* that the absolute prohibition of torture is indispensable for liberal democratic societies because the practice of torture would undermine their democratic and liberal foundations (Lukes 2006). According to Lukes, there is no such thing as "liberal-democratic torture": liberal societies respect individuals, and democratic societies base their political decisions on public discourse. Torture not only violates the human dignity and individual rights, but its open practice endangers the normative foundations of society whereas the secret practice of torture would not be accepted in a democracy. Though a liberal society might coexist with the secret use of torture by the state, a liberal democratic society cannot do so. Lukes' statement is normative rather than empirical, but it does tell something about the moral order and communicative codes of democratic societies. The civil sphere of liberal democracies favors openness over secrecy and individual rights over state power (see: Alexander 2006; Alexander and Smith 1993).

Still, the application of these and similar postulates leads to paradoxes if important values such as "innocent lives" are at stake. Lukes recognizes these dilemmas of an absolute prohibition of torture and argues that in such cases torture should be personally accounted for: though the acts of torture should be punished, the legal system might take exceptional and mitigating circumstances into account. This, as we will see, is a rather typical strategy of coping with the dilemmas of liberal democratic torture: In general, Lukes tends to reify the concept of torture while neglecting its communicative construction. The British sociologist Geoffrey Brahm Levey responded critically to Lukes' article (see also: Lukes 2007). He argues that though torture might be morally wrong, its practice is not necessary incompatible with the liberal and democratic code. Levey suggests that torture can be rendered democratically accountable by legal procedures and political elections, for example the "torture warrants" proposed by Alan Dershowitz (2002). Following this line of thought, torture becomes a problem of dirty hands, of weighing "bigger" and "lesser" evils (see also: Ignatieff 2004).

Torture and coerced confessions indisputably lost legitimacy in the last centuries. Not only the Soviet Union, also the United States had no use for judicial torture in a legal sense. Still, there are different com-

municative codes in these regimes. Whereas totalitarian regimes like the Soviet government demand painful sacrifices and public demonstrations of humility from individuals, liberal democracies like the United States try to avoid pain and death of their citizens at all costs. The only thing that can legitimate the use of torture in liberal democracies is therefore the prevention of pain and death. Torture in the War on Terror was only legitimized as a discussion topic when it became a technique of information gathering for security reasons. Though torture was banished as legal technique, it came back as a practice of the military, the police and the secret service. Yes, torture violates liberal principles, but this can be perceived as a "lesser evil" in certain circumstances. The epistemic basis of torture as interrogation technique is the informational asymmetry between the state and his enemies. Evidently, this concept of information is different from the antique and medieval notion of a hidden truth.

In the United States, the individual rights of citizens have a particularly strong tradition. The bill of rights from 1791 guarantees that no one has to provide evidence against oneself at the court, rendering confessions legally useless (Amendment V), grants to everyone a speedy, public and fair trial (Amendment VI) and prohibits any cruel or unusual form of punishment (including torture, Amendment VIII). Individual rights are also prevalent in political folklore devoted to moral integrity: they say that George Washington refused to torture British soldiers in the Independence War, whereas the British had no such inhibitions (Mayer 2008: 80-81).

Two parallel strategies of communicating torture in the American War on Terror emerge. First, the attorneys working for the Bush administration proposed a very narrow definition of torture that would allow the United States to use several interrogation techniques close to torture. The respective secret memorandums were published only in the wake of the Abu Ghraib torture scandal. Second, the harsh interrogation techniques were justified by a state of exception—the War on Terror. In 1992, Niklas Luhmann discussed the ticking bomb scenario as a hypothetical case: should one torture in order to prevent the explosion of a nuclear weapon in a big city (Luhmann 2008)? A long time, this problem was merely a product of sociological imagination and philosophical reasoning, but with 9/11 it became a part of a wider social imaginary. Torture became not only a legitimate topic in academic circles, but also in public sphere and popular culture.

US Torture Policies after 9/11

Torture did not remain a subject of academic discussions, but was employed by US forces to counter the threat of terrorism. After 9/11, the legal ground for this practice was prepared by the attorneys of the American government. Two weeks after 9/11, John C. Yoo wrote a Memo to the President that strengthened his constitutional authority:

"Neither statue, however, can place any limits on the President's determinations as to any terrorist threat, the amount of military force to be used in response, or the method, timing, and the nature of the response. These decisions, under our Constitution, are for the President alone to make" (Yoo 2005: 24).

Not only has the President the right to undertake military operations against suspected terrorists and nations supporting them, but also to nations that pose a seemingly similar threat (for example possessing weapons of mass destruction). Memorandas for the detention of suspected terrorists (Bush 2005), for the denial of habeas corpus to the inmates of Guantánamo Bay (Philbin and Yoo 2005) and for depriving the captives in the War on Terror from their "prisoners of war" status (Bybee 2005a; Yoo and Delabunty 2005) followed. The Geneva conventions were reinterpreted in such a way that suspected terrorists were no longer conceived as soldiers, but were reclassified as "unlawful combatants". As if the framing of counterterrorism as war was not enough to signal the state of exception, disguising of enemy soldiers as unlawful combatants doubled this exceptionality.

   The re-interpretation of torture was not a purely arbitrary act, but became possible by the ambiguities of the prohibition itself. Let us consider Article 5 of the "UN Universal Declaration of Human Rights" and the "UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment". Here, the use of torture is explicitly forbidden under any circumstances. But the very definition of torture as "intended to inflict severe physical and mental pain or suffering" is quite ambiguous. What is "severe pain"? When does pain start to become severe? What is meant by "intended"? A memorandum to the President of the U.S. from August 2002 tries to give an answer by concluding that torture...

"[...] covers only extreme acts. Severe pain is generally of the kind difficult for the victim to endure. Where the pain is physical, it must be an intensity akin to that which accompanies serious physical injury such as death or organ failure. Severe mental pain requires suffering not just at the moment of infliction but it

also requires lasting psychological harm, such as seen in mental disorders like the post-traumatic stress disorder. [...] Because the acts inflicting torture are extreme, there is a significant range of acts that though they might constitute cruel, inhumane, or degrading treatment or punishment fail to rise to the level of torture" (Bybee 2005b: 213-214).

Note that severe physical and mental harm should be considered "specifically intended" to become torture. If the interrogator is in a good faith that he has no such intentions, he does not violate the statutes even if he actually inflicts lasting damage upon his victim. More than that, "a good faith belief need not be a reasonable one" (Bybee 2005b: 175). Though the torture definition is narrowed down, Bybee continues to argue that the outright prohibition of torture "under the circumstances of the current war against al Qaeda and its allies [...] may be unconstitutional [sic! W. B.]" and that "necessity or self-defense could provide justifications that would eliminate any criminal liability" even for those acts falling under a narrow definition of torture (Bybee 2005b: 214). Exceptional torture remains as a backup strategy. The definition of torture is narrowed down to extreme acts, whereas a significant range of cruel, inhumane and degrading treatment is relegated to the legally unproblematic term "harsh interrogation technique".

   The prison Camp at Guantánamo Bay in Cuba became symptomatic for the use of torture and interrogation techniques in the War on Terror. Among the approved torture techniques for GTMO were isolation, sensory and sleep deprivation, removal of clothing, inducing stress by the use of dogs and female interrogators, finally the use of mild, non injurious physical contact (Greenberg and Dratel 2005: 1239). Another technique actually used in Guantánamo prison was waterboarding—a torture simulating drowning. The exceptional status of Guantánamo Bay was publicly known, but the general public was unaware of details. This gap was filled with the ticking bomb fantasy in popular media including movies and TV series. In contrast to the classical scenario in which the ticking bomb was defused by the hero just in time, in the new version the hero had to torture the villain beforehand. After 9/11, the "torture/savior-fusion" (Holmes 2006: 128) became an important narrative element, most prominently embodied in the figure of Jack Bauer from the American TV series *24*.

Communicative Strategies of Liberal Democratic Torture

The United States government used several communication strategies to cope with the problem of liberal democratic torture. First it used a very narrow definition of torture that—as critics might say—refrained from calling torture by its name and left room for the dubious "harsh interrogation techniques". The Abu Ghraib scandal in 2004 showed a second, slightly different strategy. The publicized acts of torture were quickly framed by US army and American government as cases of "abuse". This terminology implied that the incidents at the Abu Ghraib prison were not part of a widespread and systematic torture practice, but rather some isolated, if illegal, accidents. In the course of the scandal, this terminology was more and more adopted by the American media that some scholars feel even inclined to speak of "indexing" (Bennett et al. 2006). As the reelection of George W. Bush in the same year has shown, the US army and the government successfully exculpated themselves by rendering the perpetrators of those acts individually accountable. Evidently, this strategy was quite similar to the scapegoating of the NKVD officers in the aftermath of the Great Terror.

A third communicative strategy aimed at rendering torture harmless was its branding as exception and transgression.[8] In the War on Terror not only the state of exception was mobilized to justify the use of harsh interrogation techniques and torture; these practices were also packaged as transgressions to communicate the state of exception. The term "transgression" is useful to account for the symbolic power unleashed by a transgression of law. Jean Baudrilliard described 9/11 as a "death-gift" of the terrorists, as a global event, a singular case of a huge symbolic impact (Baudrillard 2003). He argued further that there could be hardly an adequate response to such a gift. Stephen Holmes pointed out that we can understand the use of torture in the War on Terror as this kind of symbolic response to 9/11: torture works precisely because it defies the rule of law (Holmes 2006). The actual practice of torture was—at

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8 | Lukes' normativism as well as Levey's calculus of torture fail to account for torture as exception and transgression. In this connection, the political theology of Carl Schmitt (2005) and the works on the sacred by the *Collége de Sociologie* deserve mentioning: Georges Bataille (2001) and Roger Caillois (2001) have shown that transgressions occur in particular periods and do not always endanger the general moral order. The anthropologist Victor Turner came to similar insights arguing that social structure is often accompanied by phenomena of anti-structure and liminality (Turner 1969). Liminality renders the ordinary rules invalid and often reverses them; it enables for transgressions while at the same time preserving the norm.

least until the Abu Ghraib photographs—disclosed from the eye of the public. Still, there was a public knowledge of these affairs. Especially the installment of the prison camp at Guantánamo Bay in the months following the terrorist attack on the World Trade Center, was an open secret. Why was this shadowy camp - outside the American territory, but under American control—widely accepted? Apparently, the worries about national security framed by the "ticking bomb narrative", provided a justification for Guantánamo Bay and torture in general.

To strip alleged terrorists from their rights can be regarded as a more or less adequate reaction to terrorist attacks in liberal societies precisely because it transgresses liberal norms. Building camps for the interrogation of alleged terrorists far from public surveillance is a symbolically significant reaction, because it violates the norms of a democratic public sphere. Beyond sacred prohibition and profane calculus, there seems to be a dark fascination regarding the transgression of torture in liberal democracies. Given the right framing, even the breach of seemingly indispensable norms can have a positive communicative value. Not only the application of norms is culturally set, also the recognition of exceptions and transgressions is shaped by cultural patterns. It is a question of compelling narratives, convincing performances and shocking images as the case of 9/11 shows. The change in the practice of torture was accompanied by a cultural transformation of the social imaginary. This is also suggested by Levey (2007), when he refers metaphorically to the "religious change" that has taken place in America after 9/11, and Lukes (2007) agrees.

The plausibility of the Ticking Bomb Scenario is of course dependent on a particular relation between truth and torture. Nowadays, the medieval spiritual connection between torture and truth is replaced by a technological imagination. In the American case, the scientification of torture established a new connection between truth and body. A good example is the American research on psychological torture, but also on other forms of modern "stealth torture". The use of psychotropic drugs and truth serums reestablishes the connection between body and mind that was cut by the Cartesian dualism. The US military also experimented with technical devices like the lie detector in order to force the body to give reliable information. Still, the truth here are only pieces of information that might yield some usable intelligence for the secret services. There is no whole truth, no confession that ends the torture. Though the ticking bomb scenario that suggests a crucial piece of information is hidden inside the prisoners body, in principle any information

might be of value for the torturers. This torture never stops; there is no confession and no foreseeable death that marks an end to the suffering. As long as the tortured body might yield further information, there is no reason to let him go. Only the external logic of the Supreme Court or a policy change can bring the indefinite detention to an end.

Conclusion
Hierarchies, Codes and Messages of Torture

The practice of torture seems, at least in relatively complex societies, to be constant throughout history. But we also seen that the configuration of torture, body, truth and pain changed in the course of history. We can't investigate torture as an isolated practice; we have to take the socio-historical circumstances such as religious practices and status hierarchies into account. Last but not least, these practices belong to a particular social imaginary. The analysis has shown that torture is always embedded in webs of narratives and images that give them a widely shared sense of legitimacy. Also the social functions of torture differ: while in pre-modern and early-modern times, torture had primarily a legal function, modern torture seems instead to fulfill a political function. I will summarize some findings on that with regard to social hierarchies, cultural codes and communicative messages.

Many studies have shown that hierarchy plays a crucial role in the practice of torture. For torture in the Antiquity, the difference between citizen and slave was decisive and in fact reproduced by torture. In the late medieval times, this hierarchy continued to exist and nobles were less often tortured. Other social hierarchies became also important, for example the social stigmatization of heretics, the suspicion towards Jewish and Muslim converts during the Inquisition and the role of gender in the witch hunts. Nevertheless, Christian religion provided an interpretative frame that shifted the meaning of torture from dishonor to spiritual cleansing which led to a more egalitarian practice of torture. In liberal democratic societies, like France or the US, the difference between citizen and non-citizen (or enemy) is important. Torture is nearly exclusively used against outsiders and often fueled by a racist imagination of the alien Other. What is particularly interesting about the case of Soviet torture is its universal egalitarianism: in principle no one was protected from torture—possibly, not even Stalin himself. Hierarchies still played an important role, but the aftermath of the Great Terror shows

that those in high positions could end up on the dock and that some prominent torturers have been in the end tortured themselves. Torture is not only affected by social hierarchies, but also plays a crucial role in reproducing those hierarchies. It not only separates citizens from slaves and other non-citizens, it helps society to construct its hostile others disguising them as heretics, counterrevolutionaries or terrorists.

With respect to the cultural coding of torture, we see variations in the evaluation of pain and in the imagination of truth. On the one hand, the evaluation of pain with regard to social groups varied; the pain of slaves or of colonial others is different from the pain of citizens. On the other hand, the universal evaluation of pain changed with time from the valorization and spiritualization of pain in late medieval and early modern times to its pure negativity in late Modernity. One can also observe different codings in the communication and imagination of truth. According to the Ancient Greeks, truth was something to be extracted from the neutral body of a slave, which differed from the concept of active participation expected from the confessor in Christian Europe. The confession of guilt focused on a religious understanding of truth in its relation to soul and God. The scientific conception of truth is different from the pre-modern torture imaginations: in the US, for instance, truth is tied to the concept of information and the assumed information asymmetry between state and tortured person is crucial. In the Soviet State, truth was also imagined as scientific and objective: the function of Soviet confession was not to eliminate the information asymmetry but to symbolize the objectivity of the official truth. The truth that manifests itself in Soviet torture was not the subjective truth of the tortured, but the objective truth of the state. The supposedly scientific truth was in fact a political perversion of truth.

Finally, the communication on torture conveyed varying messages to different audiences. The antique and medieval tortures were no secrets at all, but widely recognized and accepted practices. Therefore the message of torture was quite unambiguous, defined by their function in legal procedures. The modern use of torture is much more ambivalent. Even Soviet torture had to remain invisible; it was prohibited by the law, but nevertheless frequently practiced. It was crucial for the success of the show trials that the confessions observed by the national and international audiences appeared not to be coerced. And when the practice of torture was publicized, after the Great Terror (and especially after Stalin's death), the message conveyed exculpated its communicator: torture was presented as the work of spies and traitors, as the

grave excess of a few misguided officers, or even as the consequence of the megalomania of a single leader. In liberal democracies, where torture is also practiced secretly, a similar communication strategy surfaced during the Abu Ghraib scandal, where the systematic torture was broken down to individual abuse cases. Still, the public rhetoric in liberal democracies allows—quite similarly to the revolutionary rhetoric of communism—for a partial recognition and justification of torture. The existence of Guantánamo Bay was an open secret; though the torture itself was not visible, it was a common knowledge that "harsh interrogation techniques" were employed there. Hence the communication on torture in liberal democracies, and, to a lesser degree, in totalitarian regimes, has a very distinctive message: The transgression of liberal principles signals a state of exception.

We see that torture in different historical contexts and societies was not only endowed with differing meanings, but fulfilled also different social functions. In our contemporary society, torture may have lost its legal function, but its political function is more visible than ever. Therefore torture and its communication contributes to the imagination of state power in totalitarian regimes as well as in liberal democratic security regimes.

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