

# Torture, violent dissent and democratic institutions

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*This is a beta draft, for comments.* **People believe, and social science research demonstrates, that political democracies are more respectful of human rights and less likely to engage in state repression than non-democracies. Yet this study reports that the impact of democratic institutions upon a state's respect for one of the most widely accepted human rights—freedom from torture—is strongly reduced by violent dissent. We show first that in the absence of violent dissent both elections and especially free speech are positively associated with respect for freedom from torture. Yet once groups turn to violent tactics to challenge government the impact of both elections and freedom of speech is strongly curtailed. Why? The Dirty Hands argument suggests that the citizens in democracies are not especially likely to challenge such curtailments nor the use of torture. Thus, while democratic institutions do curtail states' use of torture during years when there are no acts of violence that threaten the state's security, that tends not to be true when the dissidents challenge the state with violence.**

Torture | Democracy | Repression

It is widely known that some people held in prisons in countries ruled by autocratic governments are tortured. It is also widely believed that few, if any, detainees in countries with democratic governments are tortured. Yet that is not so. This study documents that while democratic institutions are associated with a greater likelihood that government officials torture less in the absence of violent dissident challenges to the government's policies and/or rule, that relationship effectively disappears when the government is threatened by violent attacks by dissident groups. When a state previously not engaged in torture is challenged with violent dissent even democratic institutions do little to help governments meet their legal, ethical, and moral obligations to prohibit the use of torture by the intelligence, military, police, and prison officials in their employ.

How common is torture? We cannot know its relative incidence. This is more than the standard problem of being unable to conduct a census: inference from a randomly collected sample would be a perfectly acceptable method for answering the question. Unfortunately, that approach is not readily available (1). The difficulty is plain enough: those who use torture generally have an incentive<sup>1</sup> to hide its use (that torture is both taboo and illegal<sup>1</sup> produces that incentive). Yet researchers have created useful, comparable measures of the extent to which torture is used in different countries (2, 3). Those projects perform content analysis on annual reports of human rights violations to produce ordinal variables that reflect the extent to which torture was used in a given country in a given year. The data demonstrate that during the final quarter of the twentieth century torture was practiced by a greater proportion of the world's countries (including democracies) than any other human rights violation (4, 511). More specifically, the uncondi-

tional probability that a randomly selected country and year from that period failed to meet its obligation not to torture people under its control is 0.78 (authors' calculation): aggregated across national territory and time, torture is disturbingly common.

Yet it should be the case, one might conjecture, that elections by popular suffrage and constitutional guarantees to freedom of speech would greatly enhance the extent to which a government continues to respect the taboo against torture. This study explores that issue.

## Democratic Institutions and Torture

In line with existing literature, we study two democratic institutions: rule by the people (election to political office by popular suffrage) and freedom of speech (especially a free press). Doing so is important for theoretical reasons: it is widely established that democratic institutions influence the level of many types of violence in a society: war (5, 6); protest, civil violence and civil war (7, 8, 9); and government repression (10, 11, 12). Yet, to date this literature has conceptually and empirically treated democracy as a highly aggregated unidimensional institution: little attention has yet been given to theoretically specifying, and empirically evaluating, the impact that the different institutions which define democracy have upon violence. The use of bargaining models to explain the empirically established “democratic peace” among countries has generated useful theoretical accounts that carefully specify the incentives and processes involved (13, 14), and similar models have motivated equally well specified rival theoretical accounts (15). All of that work focuses our attention on one or more democratic institutions. Recent work on government repression has moved in this direction (16, 12), but this is the first study to identify the incentives and processes whereby elections and free speech result in the continued respect for the basic human right to be free from torture.

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## Reserved for Publication Footnotes

<sup>1</sup>Most governments have signed the Convention Against Torture, thus committing them to pass domestic legislation outlawing the use of torture.

Doing so produces unexpected insights: democracy tends to be strongly associated with normatively good outcomes. Yet, as we show below, democratic institutions do not *necessarily* produce “good” outcomes (e.g., decreasing torture). One useful opportunity to explore that claim involves the use of torture by government officials against those under the government’s jurisdiction. Both ethical considerations and domestic as well as international law proscribe the use of torture, and reflexively one would anticipate that democratic institutions would be strongly and negatively associated with the use of torture. Yet are they? We show that respect for the freedom of speech and opportunities for citizens to participate in the electoral process are strongly related to the continued respect for the right to be free from torture in peaceful countries (i.e., those not experiencing violent dissent). However, even those countries not engaged in torture previously will very likely do so, regardless of their experience with democracy, in the presence of violent dissent. Before turning to those results we first lay the theoretical foundation that explains why the reflexive expectation that democratic institutions will be strongly associated with lower levels of torture is misplaced. Having laid out the theoretical account of the two institutions and our expectations, we report our results. We conclude our study with a brief consideration of the policy implications of this research.

Two properties of democracy identified as especially important are *voice* and *speech* by which we mean: an open and competitive political system with elections that provide politicians with an incentive to heed popular opinion or feel the wrath of the dissatisfied; and the legal guarantee to be able to express one’s beliefs, opinions, and views, respectively. We conceptualize both of these institutions with respect to the costs a given individual in society can expect to pay for engaging in voice or speech: both institutions influence the citizenry’s ability to constrain Leviathan (17, 18, 19, 20). More specifically, both produce the potential for actors in society who hold different policy preferences from the executive (e.g., the dictator, president, or prime minister) to challenge the government through the ballot box (voice) or by mobilizing public opinion (speech). The expected costs to any given actor to vote or speak out cannot be measured directly, but the distribution of those costs will be strongly associated with the extent to which institutions exist that permit voice and protect speech. By institutions we mean formal rules that govern collective decision making and are widely shared and respected by the people to whom they are relevant (21). As reported in the supporting information to this study one can measure the extent to which institutions exist in polities that lower the expected cost of exercising voice and speech. We turn now to describe how the extent to which these institutions are present in a society will influence the extent to which government agents are likely to use torture against those detained by the government.

**Hypothesis Development.** The discussion thus far has ignored dissident activity and the extent to which it threatens the state and citizenry. *Violent dissent* is especially threatening to the state and citizenry, and by this term we mean activity by people who oppose government policies (or, perhaps, the constitution of government it-

self) and use acts of violence to pressure the government to either change policies or abdicate power. We conceive of violent dissent over the binary states “absent or present,” with a single act of violence serving as the threshold value. We adopt a binary classification and set the threshold at the minimum possible value to illustrate the impact of this concept on the expected effect of liberal democratic institutions on government torture. Why might one expect violent dissent to have such a stark impact?

A game theoretic treatment of a states’ use of torture to secure confession finds that the probability that a government official charged with interrogation uses torture is 1.0 (regardless of regime type) (22). Further, the Dirty Hands thesis contends that publics effectively hire politicians to keep the body politic safe from harm and thus expect them to “dirty their hands” (i.e., engage in ethically bankrupt, illegal activity like torture) when necessary (23). The distinction between democratic and autocratic regimes, by this account, is not their citizenry’s demand for politicians who will dirty their hands, but instead the citizenry’s response to those politicians who are caught. In democracies citizens will (hypocritically) punish politicians who dirty their hands in pursuit of security, and in autocracies they cannot do so. The take away point is that both a formal analysis of a utilitarian model and a philosophical inquiry in the just war tradition reach remarkably similar conclusions that strongly contradict the reflexive expectation that democratic institutions will strongly reduce the incidence of torture by government officials. Does the available evidence support this theoretical work?

As noted above, there is considerable evidence that societies ruled by democratic governments exhibit greater respect for human rights, especially the physical integrity rights of the person (e.g., freedom from arbitrary detention, maiming, arbitrary execution, etc.) (10, 12). Yet, while this relationship is well established for the broad set of physical integrity rights, some results suggest that the relationship does not hold with respect to torture (24), though there are some studies that do report that democracies exhibit lower levels of torture (2, 25). None of these studies, however, are primarily focused upon the impact of democracy: they include a measure of democracy as a control variable due to its well documented negative impact on the broader class of physical integrity rights. As such, the evidence about the impact of democratic institutions on torture is scant, contradictory, and constructed using aggregated measures of democracy. Finally, and this is at best suggestive, while several types of physical integrity rights received greater respect as a consequence of the wave of democratization that followed the end of the cold war, torture was not among them: the rate at which countries failed to respect the right to freedom from torture is effectively constant during the final quarter of the twentieth century (4).

We have three variables of primary interest, one of which (violent dissent) we expect to condition the impact of the others (voice and speech) on the incidence of torture. Assume for convenience that the government officials who are responsible for the people that the government has detained report to the executive (e.g., dictator, president, or prime minister). Assume further as well that this executive is legally responsible for provid-

ing security to the citizenry. Assume further that the executive wishes to retain office. Whether it is able to is some unspecified function of the extent to which it is able to deliver a greater expected value of goods and services to its constituents (i.e., those upon whose support it relies to retain office) than the value its constituents expect to be able to obtain from rival politicians. This approach is very general and applicable to all societies regardless of the value they score on either of our institutions,<sup>2</sup> and is a common set of assumptions for rational institutional (aka political economy) accounts of politics (26, 21).

Recall that torture has become both ethically taboo and illegal (27, 28). We assume, therefore, that, *ceteris paribus*, people prefer that government officials not engage in torture. The executive, however, is responsible for the polity's security and wishes to retain office (perhaps via repression of those outside of its constituency). It will weigh the expected value of information obtained—if it (implicitly) encourages officials to use torture—against the expected cost of being caught violating the taboo and law. The central mechanisms in our study are the claims that the executive's expected cost of being caught co-varies negatively with the likelihood that people exercise voice and speech, and that likelihood is a negative function of both the costs of voice and speech, as well as the presence of violent dissent.

We begin with voice. To illustrate our argument, consider two ideal types of polities: one in which the cost for exercising voice is vanishingly small and another in which it is exceedingly prohibitive.<sup>3</sup> Now consider two states of the world: one in which no dissident groups use violence, and a second in which dissident groups press their claims via acts of violence. In the first polity (in which voice has low expected cost) the executive will be wary of (implicitly) endorsing torture as the expected benefit to it is unlikely to be very high, and the public is unlikely to support it should he get caught. In the same polity faced with violent dissent, however, a different picture emerges. The use of violence to push forward claims for change in government policy is unlikely to meet with broad public support—the low cost of voting makes it unlikely that people will view violent dissent as a legitimate form of political participation. Further, those who eschew violence are likely to feel threatened, and support government efforts to arrest the dissidents. In other words, the executive needs to be concerned about being removed from office for failing to provide adequate public safety, and is thus likely to assign a higher value to the expected benefit of information obtained via torture.<sup>4</sup> Further, the executive is likely to assign a considerably lower value to the expected cost of being caught as the voters on whose support it relies are likely to feel threatened by the violence. And as long as the majority of the rulers' supporters believe that only 'bad guys' will be tortured, few of them are likely to pressure a leader who needs to 'dirty his hands' to keep them safe from the violent dissidents (23).

The other ideal type, where the expected cost of voice is prohibitively high (i.e., a dictatorship), is easier to evaluate. In this setting, citizens are unlikely to actively oppose the state's use of torture: the absence of a mechanism by which to punish the executive for the policies it adopts removes the incentive to exercise voice and people are likely to exercise strategic preference falsification

(30). This is so regardless of whether any dissidents exist who use violence to challenge the state and/or its policies. That is, the absence/presence of violence is not expected to influence the incidence of torture (implicitly) encouraged by the executive ruling such a polity.

The following picture emerges from this discussion: the more costly it is to exercise voice, the more freedom an executive has to utilize torture to interrogate, control or punish detainees held by the state. As voice becomes less costly, the executive's freedom to employ torture declines, but the size of that decline differs depending upon the absence/presence of dissidents who oppose the state or its policies and are willing to use violent tactics to press their challenge. The more costly voice is the less we expect the absence/presence of violent dissent to have much of an effect: dictators who need not face the ballot have a free hand to torture detainees regardless of whether dissidents use violence to challenge their rule. As the cost of voice declines, however, the picture changes: the lower the cost of voice, the more likely citizens are to oppose torture, given an absence of a violent challenge to the state, and the executive's interest in retaining office makes it less likely to permit torture of detainees. Once there is violent opposition, however, the executive can paint a threatening picture that it argues requires extraordinary measures. Recognizing that citizens' in countries where the cost of voice is low are likely to view violent dissent as illegitimate, the executive is more likely to calculate that it has more of a free hand to use torture against detainees that it identifies as one of the violent dissidents. As a result, the existence of violent dissent will strongly reduce the positive impact that voice has upon respect for freedom from torture.

Turning to freedom of speech, again consider two ideal types of polities: one in which the expected cost of speaking freely is tiny and a second in which the expected cost is prohibitively high. Assume that in both types of polities—absent government intervention—scandal sells, and that the press thus has professional and pecuniary incentives to investigate allegations of torture (because it is taboo and illegal). Assume, further, that some citizens strongly oppose the use of torture on ethical and/or legal grounds, regardless of the charges against the person in detainment (call them rights advocates). It is trivial to see that the expected cost of speaking out will strongly impact the likelihood that members of the press and rights advocates speak out. Further, as costs fall, more members of the press and rights advocates will speak out, which should raise awareness and lead others to follow suit, thus aiding mobilization against the use of torture.

How might violent dissent influence the expected relationship between free speech and the incidence of torture? The impact on the expected benefit to the executive is the same as above: it puts pressure on it to (tac-

<sup>2</sup>For an explicit formal model that makes this case, see (15).

<sup>3</sup>With the exception of violent dissent our concepts vary over continuous space. We present the logic using two polar values—here and below—for illustrative purposes only.

<sup>4</sup>We are not arguing that torture is effective. Indeed, we are unaware of evidence to support the claim that its use elicits accurate information (29). However, it does appear to be the case that many people believe that torture is effective (in at least some circumstances). Our hypothesis requires only that the executive believes that torture is, on average, effective.

itly) approve its use in an effort to combat the threat to security. The greater are the protections of speech the less compatible will be the incentives of the executive on one hand and the press and rights advocates on the other. Dissident violence increases the executive's incentive to (tacitly) approve the use of torture, both the press and the rights advocates know this, and the lower are the costs of speaking freely, the more both actors will investigate and speak out. Of course, the executive knows that this is so. Thus, the greater is the protection for free speech, the less likely is the executive to act on its incentive to (tacitly) approve torture because his expected costs of doing so rise as free speech rises. We are unable to make a strong case for the relative size of the increase in the expected benefits (due to violence) and the increase in expected costs (due to speech), but speculate that the expected costs are unlikely to trump the expected benefits. The formal model about the utilitarian justification for violence as well as the Dirty Hands argument support our expectation (22, 23).

The discussion above motivates our hypothesis, which describes the conditional impact of three variables upon the prevalence with which the state tortures detainees in its custody: *Both Voice and Free Speech co-vary negatively with the incidence of torture; the impact of each variable is a positive function of the value of the other; and the strength of those relationships declines markedly in the presence of violent dissent.*

**Results.** To evaluate our hypothesis we estimated a Generalized Additive Markov Transition model over the states of No Torture and Torture, the details of which are available in the supporting information. The No Torture state represents a country for which no allegations of torture were made in a given year, and the Torture state represents a country against which allegations of torture were advanced by Amnesty International and/or the US State Department.<sup>5</sup> Our hypothesis anticipates that in the absence of violent dissent higher levels of Voice and Free Speech will reduce the likelihood of observing Torture allegations against the government, and the size of the effect of each will grow as the value of the other rises. Yet, in the presence of violent challenges to the government or its policies, we anticipate the size of those effects to shrink dramatically, if not disappear. The results from the model are precisely consistent with the hypothesis.

Figure 1 graphically displays the relevant results. Because it is a three dimensional graph we present a single view that highlights the relevant features of the space. However, we also make available a manipulable electronic version of the graph in the article's Supporting Information. The figure plots the predicted probability of continuing to respect the right to be free from torture (along the Y-axis) given values of Voice and Free Press (along the two X-axes).

Figure 1 depicts the graph from a vantage outside of the Voice axis, at a roughly +20 degree angle above it. The lower of the two surfaces is a plane that rises slightly from the origin along both the Voice and the Free Press axes. It depicts the predicted probability in the presence of Violent Dissent. Though there is a slight positive increase as one moves across either the Voice or the Free Press axes, we report in the Supporting Information that the increase is not statistically significant. Further, the

fact that the surface is a flat plane indicates that when the government is challenged with Violent Dissent there is no evidence that the size of the effect of either Voice or Free Press increases in the value of the other.

Compare the lower surface to the upper one, which depicts the predicted probability given different combinations of values of Voice and Free Press when no dissident group uses violence to challenge the government or its policies. The surface rises sharply as one moves out from the origin along both the Voice and Free Press axes, and importantly, the slope of the surface rises more steeply as one moves toward an imaginary 45 degree line between the two X axes. That is precisely what we expect to observe given our hypothesis that the size of the impact of both Voice and Free Press are a positive function of the value of the other. Interestingly, the steepness of the slope of the surface rises most sharply when both Voice and Free Press are above their median values.

To summarize, the results from the statistical analysis demonstrate a novel, and we suspect for many readers, unexpected, limit upon the extent to which democratic institutions foster normatively appealing human rights performance by government. That this limitation exists with respect to perhaps the most widely condemned violation of the physical integrity rights of the person—freedom from torture—is especially noteworthy.

## Discussion

When The Helsinki Commission scheduled a hearing on torture in December, 2007 it referred to “the aberration of torture in democracy.”<sup>6</sup> We have shown, however, that torture is not an aberration in democracies. Democratic institutions of voice and press are, indeed, positively associated with states' respect for the right to freedom from torture, but that relationship more or less disappears when dissidents adopt violent tactics to press their claims for change in policy and or the government. Michael Walzer argues that the citizens in democracies want to have their cake and eat it to: they want politicians who will ‘dirty their hands’ to keep the nation safe, but they also want such politicians to keep that dirty laundry from public view (23). Wantchekon and Healy use game theory to make a case for why politicians have an incentive to use torture when interrogating detainees they believe might hold information about threats to national security (22). We have built upon these two arguments to explain why democratic institutions will be positively associated with the extent to which states prevent interrogative and penal agencies from using torture in the absence of a violent challenge to the state, but that this effect will essentially evaporate in the presence of such a challenge. The evidence presented above is strongly consistent with that expectation. This finding suggests that it behooves those interested in human rights and democracy to consider when and why rights will be respected as well as when/where they will not.

<sup>5</sup>As we explain in the supporting information, the data which we use to measure No Torture and Torture define three states—None, Some, and Lots. We dichotomize this to mitigate the bias in the potential undercounting of torture events.

<sup>6</sup>Personal communication from the Honorable Alcee L. Hastings, Chairman, Commission on Security and Cooperation in Europe (aka Helsinki Commission).

## Materials and Methods

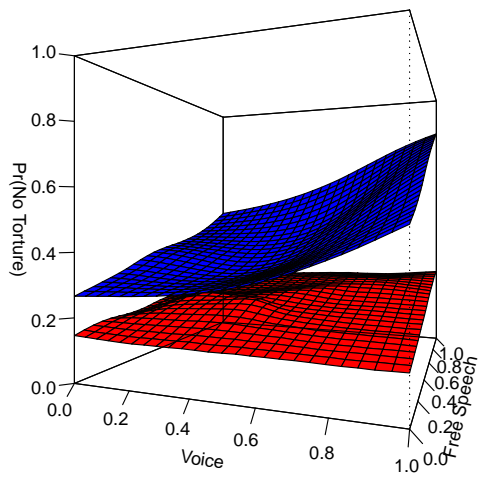
A number of data and methodological challenges face researchers interested in the scientific study of governments' respect for human rights (1, 31, 32). To address those challenges we have undertaken an extensive array of empirical analyses that we describe fully in supporting information associated with this study.

First, we develop two Bayesian measurement models that allow us to get valid, reliable measurements of both voice and press freedom using a wide array of available data for both concepts. We then use those variables and violent dissent as well as the natural logarithm of population and GDP/capita as control in a Generalized Additive Markov Transition model. The statistical model estimates the probability of observing torture or no torture given that no torture existed in the previous period. The figures show these probability of no torture in the current period given no torture in the previous period over the ranges of voice, press freedom and violent dissent holding GDP/capita and population constant at their global median values.

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**Fig. 1.**  $\Pr(\text{No Torture}_t \mid \text{No Torture}_{t-1})$  [view 1]