

Utilitarianism and Torture

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One argument against utilitarianism is that it justifies torture. The “ticking bomb” scenario, where it is stipulated that the danger of death is so imminent, and the guilt of the accused so assured, that torture, and only torture, will provide the information needed to save the innocent victims, shows that torture can maximize utility. This seems to create a problem for the act utilitarian. First, he must accept that torture, which seems to some the epitome of the unjust act, is in fact required. Second, he must either accept that others who use this rule are likely, at times to misuse it, and torture when that is wrong, or accept the distinction between esoteric and exoteric moralities—one criterion of right for the few, and another for the many—which to many seems antithetical to morality. The rule utilitarian is not much better off, since the degree of specificity of such rules is always up to the agent to determine. A narrow rule might allow torture in just these situations. A wider rule might rule it out, but then raises the question as to how a real utilitarian can justify not doing what maximizes utility. I argue that even an act utilitarian would not choose to torture. New studies in behavioral psychology shows that our ability to estimate the necessity of torture is so extremely poor that it is never appropriate to choose it. Even where torture would in fact be the right thing to do, our fallibility is such we cannot be sufficiently sure of that to be justified in choosing it.