

Torture's In/visibility

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Abstract

Using recent cases and images concerning three countries' use of, or involvement in, torture – the United Kingdom, the United States, and Israel – this chapter illustrates key pitfalls of dominant conceptions of torture, and seeks to open up alternative, critical approaches. Currently, real-time photographic and video documentation of torture tend to be privileged over other images. This has facilitated the dismissal or denial of certain evidence or aspects of torture, while also drawing attention away from the broader social structures and policies that gave rise to the documented incidents. Among the factors left outside the frame are political and legal practices and mechanisms that keep torture hidden from detainees and the general public while also rendering detainees hyper-visible to the state. This chapter examines some of these excluded or overlooked factors and argues that visual materials such as sketches and re-enactment pictures possess the unique evidentiary potential for highlighting and problematising them. The proposed approach to torture images also requires and depends on a different understanding of the phenomenon of torture itself. Legal conceptions, in particular, disregard and ultimately deny two crucial dimensions: these in/visibility-inducing forces and law's own violence. Having discussed the former dimension, the chapter turns to the latter, with a focus on law's complicity in the concealment, non-disclosure, and destruction of evidence of torture. The chapter concludes with an exploration of alternative conceptions and their potential contribution to tackling the relationship between state violence, in/visibility, and law.

Key Words: Invisibility, law, violence, visual evidence, the United States, the United Kingdom, Israel.

1. Representing Torture under the Prevalent Evidentiary Paradigm

In modern times, state torture has shifted from being a public spectacle to a hidden practice, as Michel Foucault famously described in *Discipline and Punish*. This has resulted, among other things, in a paucity of publicly available photographic or video evidence of state torture. In their absence, alternative representations have been produced, such as the following.



Figure 1: Coercive interrogation methods used by Israel.

© 2007 Ishai Mishory, B'Tselem, and Hamoked. Used with permission.

Featuring prominently in *Absolute Prohibition* – a 2007 report by Israeli NGOs B'Tselem and Hamoked on Israel's torture and ill-treatment of Palestinian detainees – these images are meant to depict five coercive interrogation methods. Clockwise from top left: 1) sleep deprivation; 2) forcing interrogees into the so-called 'banana position', in which their body

is arched backwards on a chair, sometimes while their handcuffs are shackled to their legs; 3) forcing interrogees to crouch on tiptoes in the so-called 'frog position' while their hands are cuffed behind their back, and pushing or beating them until they lose their balance; 4) sharply twisting their head; and, 5) suddenly pulling their body forward while they are handcuffed to the chair.

In order to qualify as good evidence of torture, as John Tagg has observed in *The Burden of Representation*, visual images are normally required to appear to be accurate, to create a sense of immediacy, of simply 'witnessing reality', while suppressing all traces of the mediation and representation at work. According to this dominant paradigm, photographs and videos are best suited for capturing the reality of torture, whereas sketches lack substantial evidentiary value. A possible exception is first-hand sketches drawn by torture victims or witnesses themselves,¹ as opposed to the above images, which – having been created by a professional illustrator (Ishai Mishory) – may possess unique visual qualities but are inevitably condemned to a lesser evidentiary status. These drawings are therefore likely to be seen, at best, as illustrative of the 'real', non-visual evidence available to these NGOs: the verbal testimonies of Palestinian ex-detainees on which the report is based.

Yet, this prevalent evidentiary visual paradigm can unwittingly contribute to the downplaying, disregard, or even denial of certain evidence or aspects of state torture. The privileging of photographs and videos might facilitate, in their absence, the dismissal of other sources of information, which are looked upon as inferior evidence. Examples abound of this disregard of non-photographic evidence of state violence,² perhaps the most graphic being the situation of detainees tortured in US custody at Abu Ghraib prison in Iraq – the photographic images of which stand as probably the best-known to have become public despite the invisibility shrouding torture. In comparison to the widespread global attention received following the publication of these images in 2004, earlier verbal accounts by NGOs and Iraqi ex-detainees about torture at Abu Ghraib were met with near silence in the public arena.

Moreover, this evidentiary paradigm tends to fixate on the specific details and incidents that torture photographs and videos are said to capture, while directing attention away from their political and institutional context, including the broader systematic use of torture. Indeed, many, especially in the United States, saw the Abu Ghraib images in isolation from the policies that brought them about, almost as if there was nothing to see outside the frame of the images. Accordingly, as Alfred McCoy has described in *Torture and Impunity*, there were only reprimands, disciplinary action, and courts-martial for a few soldiers whom the Bush administration described as 'bad apples', while high-ranking officials have remained unaccountable.

This response is not unique to Abu Ghraib. In 2009, a video became public showing the torture of detainees in UK military custody in Iraq, one of whom, Baha Mousa, had died later that day. Only low-level British soldiers were prosecuted, and only the soldier seen abusing the detainees in the video was eventually convicted. He later insisted, however, that many other soldiers had also been violent toward detainees.³

2. Blindness to Torture's In/visibility

A related pitfall of the dominant evidentiary paradigm is its blindness to the processes governing the visibility of torture, processes that affect both torture itself and the images that are said to capture it. In its modern form, state torture operates through a combination of invisibility and hyper-visibility.

On the one hand, state torture is kept away from the public eye as well as from the eyes of its victims. Interrogational torture, specifically, owes much of its pervasiveness to taking place beyond public sight. This is why photographs and videos of torture, on the rare occasions that they become publicly available, usually show events that occurred outside the interrogation room, as indeed evidenced by the abovementioned images of torture by US and UK forces in Iraq. Further, states seeking to keep torture invisible and deniable have increasingly deployed torture techniques – such as those depicted in the above sketches from the report on Palestinians in Israeli custody – which leave as few lasting physical marks as possible.⁴ Moreover, through blindfolding and hooding, state torture denies not only the general public but also detainees themselves access to potentially incriminating sights and information about the place of torture or the identity of the torturers.⁵

Central to concealing and denying the use of torture is secrecy. UK authorities have thus repeatedly refused, on various grounds, to release requested information on the government's involvement in torture overseas. British officials also ensured that any information on the matter was redacted from the 2014 report of the US Senate Select Committee on Intelligence on the use of torture by the Central Intelligence Agency (CIA).⁶ As for the CIA itself, it has operated so-called 'black sites' – secret detention and interrogation facilities overseas.⁷ Israel likewise concealed, until 2002, the existence of one of its interrogation and detention facilities, Facility 1391.⁸ Also in pursuit of secrecy, in 2009, the then US President, Barack Obama, tried to prevent the publication of previously unpublished photographs and videos of torture at Abu Ghraib. The following year, journalists were also expelled from Guantánamo for publishing the name of a witness testifying on interrogation techniques.⁹

On the other hand, in many cases detainees are photographed or videotaped during their torture, thus becoming hyper-visible to the state and its extensions. The CIA, for example, has videotaped many of its interrogations of terrorism suspects, and also reportedly photographed detainees who were stripped nude while awaiting interrogation – a form of sexual humiliation often used in tandem with other torture methods. To ensure this hyper-visibility operates only on the state’s terms, however, the CIA eventually destroyed interrogation videotapes it considered a potential security risk, and keeps classified the photographs of naked detainees.¹⁰ Somewhat similarly, in 2002, Israeli Border Police soldiers videotaped their physical abuse of Palestinians in the West Bank, abuse that led to one Palestinian’s death and the injury of at least three others. But later, upon realising the incriminating nature of the videotape, the soldiers destroyed it. In addition, they disposed of other potentially incriminating evidence, coordinated their stories, and later threatened a colleague who had decided to testify against them in court.¹¹

3. Rethinking Visual Evidence of Torture

Within the dominant evidentiary paradigm, then, torture images induce blindness. In so doing, they unwittingly contribute to dismissals of torture allegations. It is therefore imperative not only to seek more photographic and video documentation of torture, but also to bring into question torture’s in/visibility. Notwithstanding its value, greater visibility – in the form of more photographic and video evidence of torture – might in some respects only further conceal state torture. This is borne out by some commentators, such as Stephen Eisenman in *The Abu Ghraib Effect*, who have questioned how much of an impact such photographs and videos actually have.

The supposed evidentiary deficiency of non-photographic torture images, such as the above sketches, both reflects and is a product of the specific evidentiary visual paradigm currently dominating the social imagination. Alternative ways of looking and thinking may open up other possibilities for engaging with the socio-political complexities and implications of state torture. This is not a matter of the intentions behind torture images, as images have a life of their own apart from any intentions those who produced them may or may not have had. Nor is it a matter of if and how some viewers can or will react to visual representations of torture, because if certain responses are considered improbable or counter-intuitive, then visual intuition can be reinvented by challenging the dominant cultural and social assumptions surrounding such images.

Giorgio Agamben has argued, in *Remnants of Auschwitz*, that testimony derives its evidentiary value precisely from what it is missing. Others, such as Nicholas Mirzoeff in *The Right to Look*, have emphasised the need to look for such seeming absences and make something out of them. Perhaps, then, it is precisely the non-realistic quality of sketches such as those above that carries its own evidentiary potential. Their non-realism constitutes these images as evidence of the lack of other visual representations (photographs or videos) of the depicted torture methods, and thereby potentially calls to mind the mechanisms and practices keeping torture out of public sight. Such sketches can thus function as metapictures, a term coined by W. J. T. Mitchell in *Picture Theory* to denote representations of the representation process itself.

Besides sketches, another type of metapicture is re-enactment photographs and videos. In such images, the re-enactors are sometimes the actual former detainees that were subjected to torture, as in the following image:



Image 1: 'Ezzat: re-enacting stress position'.

© 2009 Defence for Children International – Palestine. Used with permission.

Appearing in a report the Palestine Section of NGO Defence for Children International published in 2009, *Palestinian Child Prisoners*, this photograph shows a 10-year-old Palestinian re-enacting the stress position to which he alleges Israeli soldiers subjected him: standing on one foot and lifting his hands in the air for about half an hour.

In other cases, it is not the former detainees, but others, who participate in the re-enactment. Examples include the photograph, pervasive on the internet, showing protesters demonstrating the use of water-boarding on a volunteer in front of the US Justice Department building; or the video famously released in 2013 by NGO Reprieve showing American hip-hop artist Yasiin Bey (formerly known as Mos Def) undergoing force feeding.¹² A still from the latter appears below:



Image 2: Yasiin Bey's force feeding re-enactment.
© 2013 Reprieve. Used with permission.

Treating such images as nothing but a simulation of real events misses their capacity to serve as a reminder of the very real reason for resorting to re-enactment in the first place: the social, political, and legal forces that render state torture invisible, such as the exclusion of non-state media from torture sites.

In contrast to the sort of photographs and videos that are likely to be regarded as good visual evidence, then, the evidentiary power of alternative

images of torture, such as sketches or re-enactment pictures, largely lies not in their providing what appears to be an unmediated record of state torture. Rather, it is through their mediating character that these images gain a particular evidentiary potential of not only documenting torture incidents, but also exposing how torture is mediated both by state efforts to control its visibility and by non-governmental processes of representation. Instead of providing viewers with a sense of simply witnessing state torture, these images thus potentially intimate the seemingly invisible and all-too-often unexamined representation at work.

This, however, does not simply mean that supposedly weak visual evidence actually brings torture to light whereas privileged visual evidence fails to do so, for two reasons. First, the task at hand is not simply to have sketches, re-enactment photographs, or other images supposedly expose the invisibility surrounding torture, but rather to make the relationship between visibility and invisibility the object of inquiry. To this end, an investigation is needed into how, and to what effect, visual representations of torture, like the practice of torture itself, oscillate between invisibility and visibility, between absence and presence. Second, the aim of the critical aesthetic proposed here is not to 'resolve' torture's in/visibility by proclaiming the invisible to be visible or vice versa – as if such a thing is at all possible. Instead, by foregrounding and subjecting to inquiry oscillations between visibility and invisibility, to suggest how alternative ways of looking and thinking might potentially deconstruct the visible/invisible binary itself.

4. Law's Complicity in Concealing Torture

Engaging differently with visual representations of torture, as suggested so far, requires and depends on a different understanding of the phenomenon of torture itself. This includes calling into question the way in which international law defines torture specifically, and state violence generally. In the UN Convention Against Torture, torture is defined as 'any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person' by a state official for purposes specified in the Convention. This, the Convention notes, 'does not include pain or suffering ... inherent in or incidental to lawful sanctions.' The four Geneva Conventions, the chief international legal treaties governing humanitarian treatment in war, all prohibit 'violence to life and persons' more broadly, listing 'in particular ... cruel treatment and torture'.

These legal definitions render invisible two crucial aspects of torture and violence. The first, discussed thus far, is the in/visibility through which state violence operates, is experienced, and is made possible. By focusing on physical

and psychological harm, these legal texts leave out of the picture this violent in/visibility. The second overlooked and excluded aspect, to which this chapter now turns, is law's own violence, which these legal texts deny by counterposing law to violence.

Indeed, a socially prevalent notion, particularly in countries that perceive or present themselves as law-abiding democracies, is that law stands in contrast and opposition to violence. According to this view, acts such as murder or property offences are illegal and violent, whereas acts carried out under legal auspices, such as the death penalty or unjust taxation, are perceived as non-violent.¹³ What thus remains out of sight is the violence that is part and parcel of law's routine operation, the violence in each and every legal decision and interpretation, the violence through which law realises itself and on which it therefore depends, the violence that law occasions or justifies.¹⁴

Part of law's function is to deny its own violence, as evidenced by the above legal texts. As Elizabeth Grosz has put it (following Jacques Derrida), what 'we sometimes name the law, right, or reason' is 'a kind of counter-violence whose violence consists in the denial of violence. ... This is a violence that describes and ... structures itself as lawful, and thus beyond or above violence, that which judges violence'.¹⁵ To justify existing legal definitions of violence and torture by appealing to 'ordinary language' or 'common sense' is to simply obfuscate this inherent violence,¹⁶ as well the violence of language at large.¹⁷

This violence of law includes, or manifests itself in, law's culpability for state torture. The contribution of lawyers, legal arguments, and legal institutions to shaping and legitimising torture has been extensively studied. Books such as Alan Clarke's *Rendition to Torture*, Karen Greenberg's *Rogue Justice*, and John Parry's *Understanding Torture*, as well as a growing number of articles, have all tackled this issue. A few representative examples would therefore suffice. In 2005, in the face of accusations that his government was an accomplice to extrajudicial abductions of terror suspects by the United States, the then British Prime Minister, Tony Blair, insisted on portraying such abductions as legal: 'all I know', he said, 'is that we should keep within the law ... and the notion that I, or the Americans, ... condone torture ... is completely ... out of order ... I have absolutely no evidence to suggest that anything illegal has been happening here at all'.¹⁸ Somewhat similarly, in the United States, the infamous 'torture memos' drafted by lawyers in the George W. Bush administration interpreted the law so as to permit the use of highly controversial interrogation methods.¹⁹ A 1999 ruling of the Israeli Supreme Court likewise granted impunity, under the 'necessity defence', to interrogators who use torture in so-called 'exceptional circumstances'.²⁰ As these examples illustrate, it is through legal rhetoric and

mechanisms that all three countries have sought to legitimise their contentious actions.

Not only violence, but in/visibility, too, is integral to law. As Costas Douzinas puts it, the law is, to some extent, 'always somewhere else, in the next room, deferred and unseen, ... a sign of the transcendent apprehended in its absence', just as in Franz Kafka's parable 'Before the Law'.²¹ Embodying this interplay between law, violence, and in/visibility is Lady Justice – the allegorical personification of law, typically depicted as blindfolded and holding a sword. Though her blindfold has come to symbolise the supposed impartiality of law, in the past it actually represented law's inability to deliver justice.²² Lady Justice's blindfold could thus be interpreted as illustrating a bidirectional flow of invisibility and concealment: the blindfold keeps those who are the targets of law's violence out of its sight or interest, while at the same time preventing them from knowing the direction of law's gaze.

This close relationship between law, violence, and in/visibility, however, tends to go unnoticed. In the present context, as mentioned above, law's complicity in shaping and legitimising the use of torture has been the subject of considerable scholarship. Far less attention has been paid to law's involvement, by commission or omission, in the concealment, non-disclosure, or destruction of potentially incriminating evidence of torture, and also in granting impunity to alleged torturers. Examples abound of this overlooked function of law regarding each of the three countries under examination.

As a recent case in point, with the enactment of the Justice and Security Act in the United Kingdom in 2013, so-called 'closed material procedures', previously reserved for special tribunals and specific circumstances, were extended into the main civil courts. Such procedures might ultimately allow the government to withhold information from the public about its involvement in torture, by enabling it to introduce evidence that is only seen by the judge and security-cleared 'special advocates'.²³ In 2017, this procedure was indeed put to use, in a Pakistani national's claim concerning his extrajudicial abduction by British forces from Iraq to a US detention facility in Afghanistan, where he had been allegedly tortured and incarcerated without charge for over ten years.²⁴ Secret evidence that is not disclosed to the claimants was also the basis on which, in 2016, the High Court struck out claims by a group of Libyan men who had been kidnapped by the UK and US security agencies on behalf of Libya. That same year, the Crown Prosecution Service announced it would not bring charges against British officials, despite confirming their involvement in these kidnappings. Claims by more than 600 Iraqis that British soldiers had physically mistreated them were also dismissed in 2016 by the Supreme Court, which held that they had been brought too late.²⁵

In the United States, in 2015, the Supreme Court left in place a lower court decision, which, for ‘national security’ reasons, exempted videotapes of the allegedly coercive interrogation and confinement of a Guantánamo detainee from disclosure under the Freedom of Information Act. A year later, in another case, defence attorneys at Guantánamo’s military commissions accused the trial judge and prosecution team of involvement in the destruction of favourable defence evidence; due to rules of war-court secrecy, however, the defence lawyers were prevented from publicly describing the evidence that had allegedly been destroyed. Further, high-ranking CIA officials who, as described above, pushed for the destruction of interrogation videotapes, also did so in reliance on law, interpreting it as placing no obligation to retain such materials.²⁶ In addition, under President Obama, and in line with his public statements, the Justice Department ruled out prosecutions over torture in US custody as long as interrogators followed legal advice. It also closed without charges the only two cases that were under investigation, one of which had resulted in the death of an Iraqi detainee at Abu Ghraib.²⁷ Furthermore, no less than its ally across the Atlantic Ocean, the United States has frequently used secret evidence in proceedings described as involving national security matters. Review of continued detention at Guantánamo, for example, can be based on secret evidence undisclosed to the detainee.²⁸

Legally sanctioned secrecy and impunity have been equally central to preventing public access to potential evidence of state torture in Israel/Palestine. Judicial review of so-called ‘administrative detention’ – incarceration without charge or trial for indeterminate periods of time – is unbound by the regular rules of evidence, is based on secret evidence, and is held behind closed doors.²⁹ More than 300 appeals were submitted to the Supreme Court against extensions of such detention between the years 2000 and 2010, but not even one resulted in a release order or in a rejection of the secret evidence.³⁰ Relatedly, of over 800 complaints of torture or abuse by Israeli interrogators that were submitted to the State Attorney’s Office between 2001 and 2014, none resulted in a criminal investigation.³¹ In addition, in 2013, Israel’s Supreme Court dismissed a petition requiring the videotaping of interrogations of suspected ‘security offenders’, the overwhelming majority of whom are Palestinians.³²

The violence-law-in/visibility triad is by no means unique to torture, though it plays out differently in different types and contexts of state violence. A case in point is extrajudicial state-sponsored assassinations, commonly referred to as ‘targeted killings’. Despite being conducted much more visibly than state torture, this form of state violence, too, relies on various and partly intertwined invisibilities and legalities. For instance, in late 2017, a UK tribunal dismissed a request for information about the legal advice given to the Prime Minister prior

to drone strikes in Syria.³³ During the Obama presidency, and somewhat similarly to the 'torture memos' of the George W. Bush administration, the US Justice Department's Office of Legal Counsel authored a memo approving the extrajudicial drone killing of an American citizen in Yemen, which subsequently became the subject of several lawsuits.³⁴ In Israel, a former soldier leaked to a journalist, in 2008, classified military documents suggesting that the military had violated a Supreme Court ruling by assassinating Palestinians who could have been arrested. But the Israeli Attorney General refused to investigate the reportedly unlawful killing. The only ones prosecuted and convicted were the leaker and journalist who revealed this information.³⁵ In a rhetorical twist, the judgments on their matter depicted their unauthorised possession of military documents as a 'ticking bomb' – a factually and ethically questionable scenario that is often invoked to justify state torture. These examples illustrate the importance of tackling the centrality of in/visibility and law not only to torture but to violence in general.

5. Reconceptualising Violence

What the discussion so far suggests is that the language and practice of law, on the one hand, and the prevalent evidentiary paradigm regarding images of violence, on the other hand, parallel and complement one another. Both of them mask and potentially facilitate central dimensions of state violence. And, in this regard, they themselves are inextricable from the violence they conceal. Therefore, just as alternative ways of engaging with visual representations of torture are needed, so should state violence, and torture in particular, be delineated beyond law's restrictive perimeters: beyond the equation of violence with illegal and discrete incidents of physical or psychological harm.

Alternative conceptions may lay bare some of the dimensions of torture and violence that legal definitions conceal or deny. In his widely cited writing on the subject, Johan Galtung maintains that 'violence is present when human beings are being influenced so that their actual somatic and mental realizations are below their potential realizations. ... Violence is here defined as the cause of the difference ... between what could have been and what is.' Accordingly, beyond illegal acts of interpersonal physical or psychological violence, there is also 'structural or indirect' violence 'built into the [social] structure', which 'shows up as unequal power and consequently as unequal life chances.' Interrelated with this structural violence are 'those aspects of culture, [such as] ... religion and ideology, language and art, ... science' – and, arguably, law – 'that can be used to justify or legitimize direct or structural violence.'³⁶

Michel Foucault, Rob Nixon, and Pierre Bourdieu have each conceptualised violence along somewhat similar or related lines. For Foucault, a 'relationship of violence' is one that 'acts upon a body or upon things; it forces, it bends, it breaks on the wheel, it destroys, or it closes the door on all possibilities. ... [I]f it comes up against any resistance, it has no other option but to try to minimize it.'³⁷ Nixon's book, *Slow Violence and the Environmentalism of the Poor*, describes 'slow violence' as 'the violence that occurs gradually and out of sight, a violence of delayed destruction that is ... typically not viewed as violence at all ... a violence that is neither spectacular nor instantaneous, but rather incremental and accretive'. In *Language and Symbolic Power*, Bourdieu developed the concept of 'symbolic violence'. As the translator of one of his writings clarifies, this violence concerns 'the imposition of ... symbolic representations (languages, conceptualizations, portrayals), on recipients who have little choice about whether to accept or reject them'. Occurring in and beyond law, such violence involves the use of 'symbolic capital', such as '[a]uthority [and] knowledge'.³⁸

Contrary to the view represented by the Convention Against Torture and the Geneva Conventions, then, violence can be understood as often operating indirectly; non-personally; in close relation to, rather than in disregard of, the law; and in ways irreducible to, though still potentially leading to, physical or psychological harm. By going beyond legal definitions, as well as beyond the prevailing evidentiary-visual paradigm, alternative and critical engagements with the interplay of state violence, law, and in/visibility can be developed, in and beyond the torture context.

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Notes

- ¹ Examples of sketches drawn by detainees or their incarcerators can be found in: Save the Children (Sweden), *One Day in Prison – Feels Like a Year: Palestinian Children Tell Their Own Stories* (Stockholm, 2003), viewed on 29 May 2016, <http://resourcecentre.savethechildren.se/sites/default/files/documents/2443.pdf>; and, 'No Torture. No Exceptions', *Washington Monthly*, 2008, viewed on 29 May 2016, <http://www.washingtonmonthly.com/features/2008/0801.torture.pdf>.
- ² For example: Noam Sheizaf, 'Beitunia Killings and the Media's Incredibly High Bar for Palestinian Stories', *+972 Magazine*, 21 May 2014, viewed on 29 May 2016, <http://972mag.com/beitunia-killings-and-the-medias-incredibly-high-bar-for-palestinian-stories/91166/>.
- ³ For further discussion of these and related aspects of the Abu Ghraib and Baha Mousa cases, see, respectively: Nicholas Mirzoeff, 'Invisible Empire: Visual Culture, Embodied Spectacle, and Abu Ghraib', *Radical History Review* 95 (2006): 21-44; and, Noel Whitty, 'Soldier Photography of Detainee Abuse in Iraq: Digital Technology, Human Rights and the Death of Baha Mousa', *Human Rights Law Review* 10.4 (2010): 689-714.
- ⁴ Darius Rejali, *Torture and Democracy* (Princeton and Oxford: Princeton University Press, 2007).
- ⁵ On the use of blindfolding and hooding by the United States and Israel, see, respectively, Human Rights Watch, *The Road to Abu Ghraib*, June 2004, <https://www.hrw.org/sites/default/files/reports/usa0604.pdf>; B'Tselem and Hamoked, *Kept in the Dark: Treatment of Palestinian Detainees in the Petah Tikva Interrogation Facility of the Israeli Security Agency*, Jerusalem, October 2010, viewed on 29 May 2016, https://www.btselem.org/download/201010_kept_in_the_dark_eng.pdf.
- ⁶ Ruth Blakeley and Sam Raphael, 'British Torture in the "War on Terror"', *European Journal of International Relations* 23.2 (2017): 243-266.
- ⁷ Leila Sadat, 'Ghost Prisoners and Black Sites: Extraordinary Rendition under International Law', *Case Western Reserve Journal of International Law* 37.2 (2006): 309-342.
- ⁸ Laleh Khalili, *Time in the Shadows: Confinement in Counterinsurgencies* (Stanford: Stanford University Press, 2013).
- ⁹ See, respectively: Constitution Project, *Report of the Task Force on Detainee Treatment*, Washington DC, 16 April 2013, viewed on 29 May 2016, https://www.opensocietyfoundations.org/sites/default/files/constitution-project-report-on-detainee-treatment_0.pdf; Jeremy W. Peters, 'Pentagon Reinstates Banned Guantánamo Reporter', *New York Times*, 9 July 2010, viewed on 29 May 2016, <https://mediadecoder.blogs.nytimes.com/2010/07/09/pentagon-reinstates-banned-guantanamo-reporter/>.
- ¹⁰ Mark Denbeaux, et al., 'Captured on Tape: Interrogating and Videotaping of Detainees at Guantánamo', *Seton Hall Law Review* 41 (2011): 1307-1317; Spencer Ackerman, 'CIA Photographed Detainees Naked before Sending Them to Be Tortured', *The*

Guardian, 28 March 2016, viewed on 29 May 2016, <http://www.theguardian.com/us-news/2016/mar/28/cia-photographed-naked-detainees>.

- 11 Hedi Viterbo, 'Seeing Torture Anew: A Transnational Reconceptualization of State Torture and Visual Evidence', *Stanford Journal of International Law* 50.2 (2014): 281-317.
- 12 For the photograph of protesters re-enacting water-boarding and the video of Yasiin Bey / Mos Def see, respectively, David Boroff, 'Wisconsin Man Waterboarded Girlfriend to Find Out Whether She Was Cheating on Him', *New York Daily News*, 2 March 2016, viewed on 29 May 2016, <http://www.nydailynews.com/news/crime/wis-man-waterboarded-gal-pal-find-cheated-article-1.2550123>; Ben Ferguson, 'When Yasiin Bey Was Force-Fed Guantánamo Bay-Style – Eyewitness Account', *The Guardian*, 9 July 2013, viewed on 29 May 2016, <http://www.theguardian.com/world/shortcuts/2013/jul/09/yasiin-bey-force-fed-guantanomo-bay-mos-def>.
- 13 Robert Paul Wolff, 'On Violence', *Journal of Philosophy* 66.19 (1969): 601-616.
- 14 Walter Benjamin, 'Critique of Violence'. *Reflections: Essays, Aphorisms and Autobiographical Writings*, edited by Peter Demetz (Berlin: Schocken, 1986), 277-300; Robert M. Cover, 'Violence and the Word', *Yale Law Journal* 95 (1986): 1601-1629; Jacques Derrida, 'Force of Law: The Mystical Foundations of Authority', *Cardozo Law Review* 11.5-6 (1990): 919-1046.
- 15 Elizabeth Grosz, 'The Time of Violence: Deconstruction and Value', *Cultural Values* 2.2 (1998): 190-205.
- 16 For a similar criticism, see Yves Winter, 'Violence and Visibility', *New Political Science* 34.2 (2012): 195-202.
- 17 On the violence of language, see, for example, Slavoj Žižek, *Violence: Six Sideways Reflections* (New York: Picador, 2008).
- 18 'Rendition: Blair in Quotes', *BBC*, 19 January 2006, viewed on 29 May 2016, http://news.bbc.co.uk/2/hi/uk_news/politics/4627360.stm.
- 19 David Cole (editor), *The Torture Memos: Rationalizing the Unthinkable* (New York and London: New Press, 2009).
- 20 Ardi Imseis, "'Moderate" Torture on Trial: Critical Reflections on the Israeli Supreme Court Judgment Concerning the Legality of the General Security Service Interrogation Methods', *Berkeley Journal of International Law* 19.2 (2001): 328-349.
- 21 Costas Douzinas, 'Prosopon and Antiprosopon: Prolegomena for a Legal Iconology'. *Law and the Image: The Authority of Art and the Aesthetics of Law*, edited by Costas Douzinas and Lynda Nead (Chicago and London: University of Chicago Press, 1999), 36-68.
- 22 Erwin Panofsky, *Studies in Iconology: Humanistic Themes in the Art of the Renaissance* (New York: Harper & Row, 1972); M. Jay, 'Must Justice Be Blind?: The Challenge of Images to the Law'. *Law and the Image: The Authority of Art and the Aesthetics of Law*, edited by Costas Douzinas and Lynda Nead (Chicago and London: University of Chicago Press, 1999), 19-35.

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- ²³ Owen Bowcott, 'What are Secret Courts and What Do They Mean for UK Justice?', *The Guardian*, 14 June 2013, viewed on 29 May 2016, <https://www.theguardian.com/law/2013/jun/14/what-are-secret-courts>.
- ²⁴ Owen Bowcott, 'Rendition: Government Evidence to Be Heard in Secret in UK for First Time', *The Guardian*, 23 March 2017, viewed on 31 March 2017, <https://www.theguardian.com/world/2017/mar/23/rendition-government-evidence-heard-secret-uk-first-time>.
- ²⁵ See, respectively: Ian Cobain, 'Libyan Men's Claims against UK over Gaddafi Cooperation Thrown Out', *The Guardian*, 15 April 2016, viewed on 29 May 2016, <http://www.theguardian.com/law/2016/apr/15/libyan-claims-against-uk-thrown-out-secret-evidence>; 'UK Was Involved in Libyan Torture Flights and Politicians Knew, Say British Prosecutors', *Reprieve*, 9 June 2016, viewed on 10 June 2016, <http://www.reprieve.org.uk/press/uk-was-involved-in-libyan-torture-flights-and-politicians-knew-say-british-prosecutors/>; Owen Bowcott, 'Court Rejects 600 Iraqis' Claims of Mistreatment by UK Soldiers', *The Guardian*, 12 May 2016, viewed on 10 June 2016, <http://www.theguardian.com/law/2016/may/12/court-rejects-600-iraqis-claims-of-mistreatment-by-uk-soldiers>.
- ²⁶ Douglas Cox, 'Burn After Viewing: The CIA's Destruction of the Abu Zubaydah Tapes and the Law of Federal Records', *National Security Law* 5 (2011): 131-177.
- ²⁷ See, respectively: Lawrence Hurley, 'Supreme Court Rejects Cases on Guantanamo Detainee Treatment', *Fiscal Times*, 9 March 2015, viewed on 29 May 2016, <http://www.thefiscaltimes.com/latestnews/2015/03/09/US-top-court-blocks-suit-Syrian-former-Guantanamo-detainee>; Carol Rosenberg, 'Alleged 9/11 Plotter's Lawyers Ask Prosecutor, Judge to Quit Trial over Destruction of Evidence', *Miami Herald*, 11 May 2016, viewed on 29 May 2016, <http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article77015207.html>; Glenn Greenwald, 'Obama's Justice Department Grants Final Immunity to Bush's CIA Torturers', *The Guardian*, 31 August 2012, viewed on 29 May 2016, <http://www.guardian.co.uk/commentisfree/2012/aug/31/obama-justice-department-immunity-bush-cia-torturer>.
- ²⁸ Kent Roach, *The 9/11 Effect: Comparative Counter-Terrorism* (New York: Cambridge University Press, 2011).
- ²⁹ Amnesty International, *Starved of Justice: Palestinians Detained Without Trial by Israel*, London, 2012, viewed on 29 May 2016, https://www.amnestyusa.org/wp-content/uploads/2017/04/israelopt_starved_of_justice_060612-final.pdf.
- ³⁰ Shiri Krebs, 'Lifting the Veil of Secrecy: Judicial Review of Administrative Detentions in the Israeli Supreme Court', *Vanderbilt Journal of Transnational Law* 45.3 (2012): 639-703.
- ³¹ Public Committee Against Torture in Israel, *Prosecutorial Indifference: Systematic Failures in the Investigation of Soldier Violence Against Detainees in the Occupied Palestinian Territories*, Jerusalem, June 2014, viewed on 29 May 2016, <http://stoptorture.org.il/wp-content/uploads/2015/10/%D7%91%D7%9E%D7%A6%D7%97-%D7%9C%D7%90-%D7%A0%D7%97%D7%95%D7%A9%D7%94->

- %D7%92%D7%A8%D7%A1%D7%94-%D7%91%D7%90%D7%A0%D7%92%D7%9C%D7%99%D7%AAProsecutorial-Indifference.pdf.
- 32 Viterbo, note 11.
- 33 Owen Bowcott, ‘Tribunal Rules Against Total Secrecy over UK Drone Strikes’, *The Guardian*, 4 January 2018, viewed 4 January 2018, <https://www.theguardian.com/politics/2018/jan/04/tribunal-rules-against-total-secrecy-over-uk-drone-strikes>.
- 34 Department of Justice – Office of Legal Counsel, *Memorandum for the Attorney General Re: Applicability of Federal Criminal Laws and the Constitution to Contemplated Lethal Operations Against Shaykh Anwar al-Aulaqi* (Washington DC, July 16 2010, viewed on 29 May 2016), <https://www.nytimes.com/interactive/2014/06/23/us/23awlaki-memo.html>.
- 35 Dan Izenberg, ‘Stamp of Approval from Attorney-General’, *Jerusalem Post* 13 April 2010, viewed on 29 May 2016, <http://www.jpost.com/Israel/Stamp-of-approval-from-attorney-general>.
- 36 Johan Galtung, ‘Peace, and Peace Research’, *Journal of Peace Research* 6.3 (1969): 167-191; Johan Galtung, ‘Cultural Violence’, *Journal of Peace Research* 27.3 (1990): 291-305.
- 37 Michel Foucault, ‘The Subject and Power’, *Critical Inquiry* 8.4 (1982): 777-795.
- 38 Richard Terdiman, ‘Translator’s Introduction to Pierre Bourdieu’s The Force of Law: Toward a Sociology of the Juridical Field’, *Hastings Law Journal* 38 (1987): 805-813.

Bibliography

- Ackerman, Spencer. ‘CIA Photographed Detainees Naked before Sending Them to be Tortured’. *The Guardian*, 28 March 2016. Viewed on 29 May 2016, <http://www.theguardian.com/us-news/2016/mar/28/cia-photographed-naked-detainees>.
- Agamben, Giorgio. *Remnants of Auschwitz: The Witness and the Archive*. New York: Zone Books, 1999.
- Amnesty International. *Starved of Justice: Palestinians Detained Without Trial by Israel*. London, 2012. Viewed on 29 May 2016, https://www.amnestyusa.org/wp-content/uploads/2017/04/israelopt_starved_of_justice_060612-final.pdf.
- Benjamin, Walter. ‘Critique of Violence’. *Reflections: Essays, Aphorisms and Autobiographical Writings*, edited by Peter Demetz, Berlin: Schocken, 1986, 277-300.
- Blakeley, Ruth and Sam Raphael. ‘British Torture in the “War on Terror”’. *European Journal of International Relations* 23.2 (2017): 243-266.
- Boroff, David. ‘Wisconsin Man Waterboarded Girlfriend to Find Out Whether She Was Cheating on Him’. *New York Daily News*, 2 March 2016. Viewed on 29 May 2016,

<http://www.nydailynews.com/news/crime/wis-man-waterboarded-gal-pal-find-cheated-article-1.2550123>.

Bourdieu, Pierre. *Language and Symbolic Power*. Oxford: Polity Press, 1991.

Bowcott, Owen. 'What are Secret Courts and What Do They Mean for UK Justice?'. *The Guardian*, 14 June 2013. Viewed on 29 May 2016, <https://www.theguardian.com/law/2013/jun/14/what-are-secret-courts>.

———. 'Court Rejects 600 Iraqis' Claims of Mistreatment by UK Soldiers'. *The Guardian*, 12 May 2016. Viewed on 10 June 2016, <http://www.theguardian.com/law/2016/may/12/court-rejects-600-iraqis-claims-of-mistreatment-by-uk-soldiers>.

———. 'Rendition: Government Evidence to Be Heard in Secret in UK for First Time'. *The Guardian*, 23 March 2017. Viewed on 31 March 2017, <https://www.theguardian.com/world/2017/mar/23/rendition-government-evidence-heard-secret-uk-first-time>.

———. 'Tribunal Rules Against Total Secrecy over UK Drone Strikes'. *The Guardian*, 4 January 2018. Viewed 4 January 2018, <https://www.theguardian.com/politics/2018/jan/04/tribunal-rules-against-total-secrecy-over-uk-drone-strikes>.

B'Tselem and Hamoked. *Absolute Prohibition: The Torture and Ill-treatment of Palestinian Detainees*. Jerusalem, May 2007. Viewed on 29 May 2016. http://www.btselem.org/download/200705_utterly_forbidden_eng.pdf.

———. *Kept in the Dark: Treatment of Palestinian Detainees in the Petah Tikva Interrogation Facility of the Israeli Security Agency*. Jerusalem, October 2010. Viewed on 29 May 2016. https://www.btselem.org/download/201010_kept_in_the_dark_eng.pdf.

Clarke, Alan W. *Rendition to Torture*. New Brunswick: Rutgers University Press, 2012.

Cobain, Ian. 'Libyan Men's Claims against UK over Gaddafi Cooperation Thrown Out'. *The Guardian*, 15 April 2016. Viewed on 29 May 2016, <http://www.theguardian.com/law/2016/apr/15/libyan-claims-against-uk-thrown-out-secret-evidence>.

Cole, David (editor). *The Torture Memos: Rationalizing the Unthinkable*. New York and London: New Press, 2009.

Constitution Project. *Report of the Task Force on Detainee Treatment*. Washington DC, 16 April 2013. Viewed on 29 May 2016. https://www.opensocietyfoundations.org/sites/default/files/constitution-project-report-on-detainee-treatment_0.pdf.

Cover, Robert M. 'Violence and the Word'. *Yale Law Journal* 95 (1986): 1601-1629.

Cox, Douglas. 'Burn After Viewing: The CIA's Destruction of the Abu Zubaydah Tapes and the Law of Federal Records'. *National Security Law* 5 (2011): 131-177.

Defence for Children International – Palestine. *Palestinian Child Prisoners: The Systematic and Institutionalised Ill-treatment and Torture of Palestinian Children by Israeli Authorities*. Jerusalem, June 2009. Viewed on 29 May 2016.
https://d3n8a8pro7vhmx.cloudfront.net/dcipalestine/pages/1298/attachments/original/1433987832/DCIP_childprisoner_report.pdf?1433987832.

Denbeaux, Mark, Joshua Denbeaux, Matthew Darby, Adam Deutsch, Jennifer Ellick, David Gratz and Michael Ricciardelli, 'Captured on Tape: Interrogating and Videotaping of Detainees at Guantánamo', *Seton Hall Law Review* 41 (2011): 1307-1317.

Department of Justice – Office of Legal Counsel. *Memorandum for the Attorney General Re: Applicability of Federal Criminal Laws and the Constitution to Contemplated Lethal Operations Against Shaykh Anwar al-Aulaqi*. Washington DC, July 16 2010. Viewed on 29 May 2016, <https://www.nytimes.com/interactive/2014/06/23/us/23awlaki-memo.html>.

Derrida, Jacques. 'Force of Law: The Mystical Foundations of Authority'. *Cardozo Law Review* 11.5-6 (1990): 919-1046.

Douzinas, Costas. 'Prosopon and Antiprosopon: Prolegomena for a Legal Iconology'. *Law and the Image: The Authority of Art and the Aesthetics of Law*, edited by Costas Douzinas and Lynda Nead, Chicago and London: University of Chicago Press, 1999, 36-68.

Eisenman, Stephen F. *The Abu Ghraib Effect*. London: Reaktion Books, 2010.

Ferguson, Ben. 'When Yasiin Bey Was Force-Fed Guantánamo Bay-Style – Eyewitness Account', *Guardian*, 9 July, 2013. Viewed on 29 May 2016,
<http://www.theguardian.com/world/shortcuts/2013/jul/09/yasiin-bey-force-fed-guantanomo-bay-mos-def>.

Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. New York: Pantheon Books, translated by Alan Sheridan, 1978.

———. 'The Subject and Power'. *Critical Inquiry* 8.4 (1982): 777-795.

Galtung, Johan. 'Cultural Violence'. *Journal of Peace Research* 27.3 (1990): 291-305.

———. 'Peace, and Peace Research', *Journal of Peace Research* 6.3 (1969): 167-191.

Greenberg, Karen J. *Rogue Justice: The Making of the Security State*. New York: Crown, 2016.

Greenwald, Glenn. 'Obama's Justice Department Grants Final Immunity to Bush's CIA Torturers'. *The Guardian*, 31 August 2012. Viewed on 29 May 2016, <http://www.guardian.co.uk/commentisfree/2012/aug/31/obama-justice-department-immunity-bush-cia-torturer>.

Grosz, Elizabeth. 'The Time of Violence: Deconstruction and Value'. *Cultural Values* 2.2 (1998): 190-205.

Human Rights Watch. *The Road to Abu Ghraib*. June 2004. <https://www.hrw.org/sites/default/files/reports/usa0604.pdf>.

Hurley, Lawrence. 'Supreme Court Rejects Cases on Guantanamo Detainee Treatment'. *Fiscal Times*, 9 March 2015. Viewed on 29 May 2016, <http://www.thefiscaltimes.com/latestnews/2015/03/09/US-top-court-blocks-suit-Syrian-former-Guantanamo-detainee>.

Imseis, Ardi. "'Moderate" Torture on Trial: Critical Reflections on the Israeli Supreme Court Judgment Concerning the Legality of the General Security Service Interrogation Methods'. *Berkeley Journal of International Law* 19.2 (2001): 328-349.

Izenberg, Dan. 'Stamp of Approval from Attorney-General'. *Jerusalem Post* 13 April 2010. Viewed on 29 May 2016, <http://www.jpost.com/Israel/Stamp-of-approval-from-attorney-general>.

Jay, Martin. 'Must Justice Be Blind?: The Challenge of Images to the Law'. *Law and the Image: The Authority of Art and the Aesthetics of Law*, edited by Costas Douzinas and Lynda Nead. Chicago and London: University of Chicago Press, 1999, 19-35.

Khalili, Laleh. *Time in the Shadows: Confinement in Counterinsurgencies*. Stanford: Stanford University Press, 2013.

Krebs, Shiri. 'Lifting the Veil of Secrecy: Judicial Review of Administrative Detentions in the Israeli Supreme Court'. *Vanderbilt Journal of Transnational Law* 45.3 (2012): 639-703.

McCoy, Alfred W. *Torture and Impunity: The U.S. Doctrine of Coercive Interrogation*. Madison: University of Wisconsin Press, 2012.

Mirzoeff, Nicholas. 'Invisible Empire: Visual Culture, Embodied Spectacle, and Abu Ghraib'. *Radical History Review* 95 (2006): 21-44.

———. *The Right to Look: A Counterhistory of Visuality*. Durham: Duke University Press, 2011.

Mitchell, W. J. T. *Picture Theory: Essays on Verbal and Visual Representation*. Chicago and London: Chicago University Press, 1995.

Nixon, Rob. *Slow Violence and the Environmentalism of the Poor*. Cambridge, MA and London: Harvard University Press, 2011.

'No Torture. No Exceptions'. *Washington Monthly*, 2008. Viewed on 29 May 2016, <http://www.washingtonmonthly.com/features/2008/0801.torture.pdf>.

Panofsky, Erwin. *Studies in Iconology: Humanistic Themes in the Art of the Renaissance*. New York: Harper & Row, 1972.

Parry, John T. *Understanding Torture: Law, Violence, and Political Identity*. Ann Arbor: University of Michigan Press, 2010.

Peters, Jeremy W. 'Pentagon Reinstates Banned Guantánamo Reporter'. *New York Times*, 9 July 2010. Viewed on 29 May 2016, <https://mediadecoder.blogs.nytimes.com/2010/07/09/pentagon-reinstates-banned-guantanamo-reporter/>.

Public Committee Against Torture in Israel. *Prosecutorial Indifference: Systematic Failures in the Investigation of Soldier Violence Against Detainees in the Occupied Palestinian Territories*. Jerusalem, June 2014. Viewed on 29 May 2016, <http://stoptorture.org.il/wp-content/uploads/2015/10/%D7%91%D7%9E%D7%A6%D7%97-%D7%9C%D7%90-%D7%A0%D7%97%D7%95%D7%A9%D7%94-%D7%92%D7%A8%D7%A1%D7%94-%D7%91%D7%90%D7%A0%D7%92%D7%9C%D7%99%D7%AAProsecutorial-Indifference.pdf>.

'UK Was Involved in Libyan Torture Flights and Politicians Knew, Say British Prosecutors'. *Reprive*, 9 June 2016. Viewed on 10 June 2016, <http://www.reprive.org.uk/press/uk-was-involved-in-libyan-torture-flights-and-politicians-knew-say-british-prosecutors/>.

Rejali, Darius. *Torture and Democracy*. Princeton and Oxford: Princeton University Press, 2007.

'Rendition: Blair in Quotes'. *BBC*, 19 January 2006. Viewed on 29 May 2016, http://news.bbc.co.uk/2/hi/uk_news/politics/4627360.stm.

Roach, Kent. *The 9/11 Effect: Comparative Counter-Terrorism*. New York: Cambridge University Press, 2011.

Rosenberg, Carol. 'Alleged 9/11 Plotter's Lawyers Ask Prosecutor, Judge to Quit Trial over Destruction of Evidence'. *Miami Herald*, 11 May 2016. Viewed on 29 May 2016,

<http://www.miamiherald.com/news/nation-world/world/americas/guantanamo/article77015207.html>.

Sadat, Leila. 'Ghost Prisoners and Black Sites: Extraordinary Rendition under International Law'. *Case Western Reserve Journal of International Law* 37.2 (2006): 309-342.

Save the Children (Sweden). *One Day in Prison – Feels Like a Year: Palestinian Children Tell Their Own Stories*. Stockholm, 2003. Viewed on 29 May 2016,

<http://resourcecentre.savethechildren.se/sites/default/files/documents/2443.pdf>.

Senate Select Committee on Intelligence. *Committee Study of the Central Intelligence Agency's Detention and Interrogation Program*. 2014. Viewed on 29 May 2016, <https://www.amnestyusa.org/pdfs/sscistudy1.pdf>.

Sheizaf, Noam. 'Beitunia Killings and the Media's Incredibly High Bar for Palestinian Stories'. *+972 Magazine*, May 21 2014. Viewed on 29 May 2016,

<http://972mag.com/beitunia-killings-and-the-medias-incredibly-high-bar-for-palestinian-stories/91166/>.

Tagg, John. *The Burden of Representation: Essays on Photographies and Histories*. Minneapolis: University of Minnesota Press, 1988.

Terdiman, Richard. 'Translator's Introduction to Pierre Bourdieu's The Force of Law: Toward a Sociology of the Juridical Field'. *Hastings Law Journal* 38 (1987): 805-813.

Viterbo, Hedi. 'Seeing Torture Anew: A Transnational Reconceptualization of State Torture and Visual Evidence'. *Stanford Journal of International Law* 50.2 (2014): 281-317.

Whitty, Noel. 'Soldier Photography of Detainee Abuse in Iraq: Digital Technology, Human Rights and the Death of Baha Mousa'. *Human Rights Law Review* 10.4 (2010): 689-714.

Winter, Yves. 'Violence and Visibility'. *New Political Science* 34.2 (2012): 195-202.

Wolff, Robert Paul. 'On Violence'. *Journal of Philosophy* 66.19 (1969): 601-616

Žižek, Slavoj. *Violence: Six Sideways Reflections*. New York: Picador, 2008.