

TORTURE

A Collection

XXVI

EDITED BY
SANFORD
LEVINSON



OXFORD
UNIVERSITY PRESS

2004

CONTENTS

ARIEL DORFMAN

FOREWORD

The Tyranny of Terror: Is Torture
Inevitable in Our Century and
Beyond? 3

SANFORD LEVINSON

ACKNOWLEDGMENTS 19

1 Contemplating Torture:
An Introduction 23

Part I Philosophical Considerations

HENRY SHUE

2 Torture 47

MICHAEL WALZER

3 Political Action: The Problem
of Dirty Hands 61

JEAN BETHKE ELSHTAIN

4 Reflection on the Problem
of "Dirty Hands" 77

Part II Torture as Practiced

JOHN H. LANGBEIN

5 The Legal History of Torture 93

JEROME H. SKOLNICK

6 American Interrogation:
From Torture to Trickery 105

MARK OSIEL

7 The Mental State of Torturers:
Argentina's Dirty War 129

Part III

Contemporary Attempts to Abolish Torture through Law

- | | | |
|-------------------------|----|---|
| JOHN T. PARRY | 8 | Escalation and Necessity: Defining Torture at Home and Abroad 145 |
| SUPREME COURT OF ISRAEL | 9 | Judgment Concerning the Legality of the General Security Service's Interrogation Methods 165 |
| MIRIAM GUR-ARYE | 10 | Can the War against Terror Justify the Use of Force in Interrogations? Reflections in Light of the Israeli Experience 183 |
| OONA A. HATHAWAY | 11 | The Promise and Limits of the International Law of Torture 199 |
| FIONNUALA NÍ AOILÁIN | 12 | The European Convention on Human Rights and Its Prohibition on Torture 213 |
| OREN GROSS | 13 | The Prohibition on Torture and the Limits of the Law 229 |

Part IV

Reflections on the Post–September 11 Debate about Legalizing Torture

- | | | |
|---------------------|----|--|
| ALAN DERSHOWITZ | 14 | Tortured Reasoning 257 |
| ELAINE SCARRY | 15 | Five Errors in the Reasoning of Alan Dershowitz 281 |
| RICHARD A. POSNER | 16 | Torture, Terrorism, and Interrogation 291 |
| RICHARD H. WEISBERG | 17 | Loose Professionalism, or Why Lawyers Take the Lead on Torture 299 |

CONTRIBUTORS 307

INDEX 311