

New York state senator in the wrong on torture of accused bomber

Michael Sean Winters | Apr. 24, 2013 Distinctly Catholic

[Yesterday, I called attention](#) [1] to an interview on the Piers Morgan show on CNN, in which Republican State Sen. Greg Ball defended a tweet he sent out calling for the bombing suspect in Boston to be tortured. Mr. Ball, who is not in law enforcement and had no inside information on the investigation, suggested that there might be information the suspect had that could only be garnered through torture.

Of course, there might be alien life forms that had landed in Central Park who knew something about the matter, too. There is, so far, no evidence that the two Tsarnaev brothers had planted bombs waiting to go off. There is, so far, no evidence that they were part of a large conspiracy. And it is highly doubtful that even if we had such evidence, if there were a ticking time bomb, that torture would be the best way to secure reliable information about it. A person whose moral compass has become so warped that he is prepared to bomb innocents would not possess a moral scruple about lying to police about the location of a bomb. Much evidence exists to show that someone being tortured does not necessarily speak the truth but speaks what he thinks the interrogators want to hear.

The efficacy, or its lack, of torture as a method for obtaining information, however, is not the key point. Torture is against the law. We all know that there are good laws and bad laws, but we also know, or should know, that law is the hallmark of civilization. Sen. Ball may think it is OK to violate the law in this instance: After all, the suspects are foreign-born Muslims. Mr. Ball spoke passionately about "red-blooded Americans" and seemed to distinguish between them and foreign-born Muslims. (And Jews, apparently, as he made a snide remark in a subsequent interview about Alan Dershowitz's name. I can sympathize with someone being snide about Mr. Dershowitz on other grounds, but not his name or ethnicity!) But the law does not so distinguish. As Kathleen Parker noted [in her column this morning](#) [2] in *The Washington Post*, "Discrimination is a life-saving tool in the jungle -- steer clear of hyenas -- but it has no place in American jurisprudence." The fact that Dzhokhar Tsarnaev is a Muslim and that he is foreign-born does not matter before the law. It matters that he is a U.S. citizen.

I note in passing that, according to his biography on his website at the New York State Senate, Mr. Ball "has twice in four years been named Legislator of the Year by the New York State Rifle and Pistol Association." I am guessing he is a big fan of the Second Amendment. Evidently he cares less about the Fourth, Fifth and Sixth Amendments, all of which treat the rights of citizens in law enforcement and judicial proceedings. Ball is, we might say, a "cafeteria constitutionalist."

Sen. Ball should be made to watch this clip from the classic movie, "A Man for All Seasons," in which Sir Thomas More defends the rule of law in words upon which I cannot improve.

Still, the fact that torture is illegal is not the key point. There are, after all, bad laws. The key fact is that torture

denies the human dignity of both the person tortured and the person doing the torturing. And it affects a moral deformation on the one doing the torture. This is the key point. We do not torture in this country only because we worry that Americans abroad might face similar treatment if we were to do it. We do not torture in this country only because it is cruel to the person being tortured. We do not torture in the United States because we are better than that, because we will not compromise our humanity, even if a criminal has compromised his.

The same reasoning is what led me to oppose the death penalty. By the time the death penalty is inflicted, the person to be executed has already done his worst. That is a discrete event. The execution is a different, discrete event. We are the perpetrators of an execution, we the people. A life is terminated in our name. Of course, in some sense, the criminal deserves his punishment, but do we deserve to morally deform ourselves?

In his masterful book "Bloodlands," Timothy Snyder distinguishes moral danger from mortal danger. "The moral danger, after all, is never that one might become a victim, but that one might be a perpetrator or a bystander." The Tsarnaev brothers are accused of great evil. But those who advocate torturing the surviving brother or who suggest he be denied his rights as a citizen and be treated as an enemy combatant or who suggest he not be read his Miranda rights -- all these people are perpetrating a different moral evil, the evil of forgetting that ours is a nation of laws, not men, that our laws are a hallmark of our civilization, and that our law enforcement agents should be held to the highest standards of civilized behavior precisely because they act in the name of the nation.

There are times when I fret for our nation, but most times I think the fretting is overwrought. For example, I think our legal culture needs to continue to work through the implications of religious liberty for the way our government interacts with civil society, but I do not think there is a "war on religion." But, when I see an elected official breezily suggesting we torture an American citizen, I do fret. When his statements are not roundly denounced by his fellow Republicans, I worry more. The Tsarnaevs are not the only ones who "self-radicalized." In the end, this is what is most obviously grotesque about state Sen. Ball's comments: In his hatred of the perpetrators of the violence in Boston, he apes them, and I use that verb precisely. Mr. Ball may fancy himself a "red-blooded American," but he wishes to dehumanize us all.

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