

Schriftenreihe
„Studien zur Politischen Soziologie“

herausgegeben von

Prof. Dr. Andrew Arato,
The New School for Social Research, New York
Prof. Dr. Hauke Brunkhorst, Universität Flensburg
Dr. Regina Kreide,
Goethe-Universität Frankfurt am Main

Band 2

Bev Clucas | Gerry Johnstone | Tony Ward (Eds.)

Torture: Moral Absolutes and Ambiguities



Nomos

Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliografie; detaillierte bibliografische Daten sind im Internet über <http://www.d-nb.de> abrufbar.

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data is available in the Internet at <http://www.d-nb.de>.

ISBN 978-3-8329-4077-5

1. Auflage 2009

© Nomos Verlagsgesellschaft, Baden-Baden 2009. Printed in Germany. Alle Rechte, auch die des Nachdrucks von Auszügen, der fotomechanischen Wiedergabe und der Übersetzung, vorbehalten. Gedruckt auf alterungsbeständigem Papier.

This work is subject to copyright. All rights are reserved, whether the whole or part of the material is concerned, specifically those of translation, reprinting, re-use of illustrations, broadcasting, reproduction by photocopying machine or similar means, and storage in data banks. Under § 54 of the German Copyright Law where copies are made for other than private use a fee is payable to »Verwertungsgesellschaft Wort«, Munich.

Acknowledgments

We are very grateful to Daniel Metcalfe for his able assistance in editing the chapters for this volume, to the School of Law and Faculty of Arts and Social Sciences, University of Hull, for supporting the conference at which earlier versions of these papers were presented, and to all our colleagues and friends who helped to make the conference a success. Thanks also to Silke Baumann at Nomos for her patience in preparing the book for publication.

Hull, England
December 2008

Bev Clucas
Gerry Johnstone
Tony Ward

Contents

Introduction	1
<i>Tony Ward, Gerry Johnstone and Bev Clucas</i>	
1. 'Jurists, Bad Christians': Torture and the Rule of Law	10
<i>Massimo la Torr</i>	
2. Justifying Defensive Torture	39
<i>Uwe Steinhoff</i>	
3. The Ticking Bomb Scenario as a Moral Scandal	61
<i>Francesco Belvisi</i>	
4. Torture and Democracy	73
<i>Hauke Brunkhorst</i>	
5. Survey of the Crime of Torture in the Jurisprudence of the ICTY	83
<i>Tsvetana Kamenova</i>	
6. English Law and Evidence Obtained by Torture: Vindication of Basic Principle or Judicial Abnegation? Implications of <i>A v. Secretary of State for the Home Department</i> .	96
<i>Patrick Birkinshaw</i>	
7. Bush II's Constitutional and Legal Theory: The Constitution of Emergency between Law and Propaganda	116
<i>Agustín José Menéndez</i>	
8. Torture, between Law and Politics: A Retrospective View	139
<i>Marina Lalatta Costerbosa</i>	
9. Nursing During National Socialism: Complicity in Terror, and Heroism	147
<i>Alison J. O'Donnell, Susan Benedict, Jochen Kuhla and Linda Shields</i>	
10. Torture and the Paradox of State Violence	163
<i>Penny Green and Tony Ward</i>	
11. <i>24</i> and Torture	176
<i>Bev Clucas</i>	
Contributors	203

