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Lisa Silverman, *Tortured Subjects: Pain, Truth, and the Body in Early Modern France*. Chicago and London: University of Chicago Press, 2001. xv +264 pp. Illustrations, notes, bibliography, and index. \$42.00 U.S. (cl). ISBN 0-226-75753-6. \$20.00 U.S. (pb). ISBN 0-226-75754-4.

Review by Robert A. Schneider, The Catholic University of America.

Although Lisa Silverman's book, as the title suggests, focuses on torture as an aspect of the judicial process of the Old Regime, it strives to encompass much more. One might expect a book on this subject to dwell on the philosophes' arguments against torture and the process that led the monarchy finally to abolish it in 1788. In fact, only a small part of *Tortured Subjects* is devoted to the Enlightenment and the subject of judicial reform, and it is hardly the most revealing or interesting part. Rather, the more ambitious problem Silverman poses for herself relates to the other slope of the question: how can we understand the rationale of torture, its legitimacy and efficacy in the minds of learned magistrates and populace alike, in terms other than judicial expedience? Her answer takes her in several directions: indeed, one of the book's virtues is its wide-range of sources, both prescriptive and practical, including materials from the municipal and parlementary courts of Toulouse.

She frames her book as a cultural study of the body, and in particular of the relationship between body, truth and pain. It is thus in large part a meditation on torture as merely one aspect of the "sacramental embrace of pain," which she sees as a fundamental feature of Old Regime religiosity. Magistrates subscribed to the belief that pain was a salutary experience. It yielded truth in their own courtrooms, applied as torture to the accused, but it also proved edifying in their chapels, applied to their own bodies as penitential exercises. One of Silverman's more provocative claims is to associate the high enrollment of magistrates in penitential companies--confraternities that practiced various forms of mortification well into the eighteenth century--with these same magistrates' reliance on and belief in torture as an effective and legitimate instrument of legal interrogation. In Silverman's neat formulation, the Old Regime apologists for torture valued pain as an instrument that wrenched the truth from an always recalcitrant human will. In their critique of torture, the eighteenth-century *philosophes* saw things differently. They were not only, or even for the most part, acting out of humanitarian impulses but rather from a belief that pain could not lead to truth or justice. For them, pain confronted not the will, but merely the capricious, irrational body that yielded under pain's duress only various and unpredictable bodily responses, not truth.

The book's introduction elegantly sets out the themes and arguments that follow, raising expectations that the succeeding chapters will not only establish the centrality of torture in both the judicial process and contemporary thinking, but also shed light on the culture of the body in the Old Regime. Although it is not entirely clear that these expectations are met, Silverman's exposition certainly tells us much

about the theory and practice of torture. The first chapter reconstructs in detail the case of one Jean Bourdil, an *archer* of the Hôpital de la Grave of Toulouse, tried for murder in 1726. The reader is given more about this case than the subject warrants, but it does serve as an example of what sort of crimes and legal processes led to judicial torture. Chapter two provides an overview of the legal background to torture. Here it is established that legal thinking was heavily imbued with extra-legal assumptions, especially those of a religious nature, regarding the role of pain in exacting truth in the interrogative process. The third chapter is the most archivally based in the book. It provides an interesting look at the local variations in the imposition of torture, as well as the different kinds and stages of torture that magistrates exacted. Despite a certain reticence of the documents, it also suggests trends in the practice of torture in the seventeenth and eighteenth century, trends that show a decided decline in its frequency well before the Enlightenment. Chapters four and five take us into two different areas the author sees as related to torture: penitential piety and medical approaches to pain. The final chapter outlines the arguments offered by eighteenth-century critics of torture.

Lisa Silverman approaches her subject with great intelligence and insight, bringing to it a wide range of interdisciplinary readings, including commentary on present-day abuses. *Tortured Subjects* is certainly a thoughtful study and will be read with profit by anyone interested in the legal culture of the Old Regime. It must be said, however, that some aspects of the book raise questions about the historical reasoning that informs it. There are several passages, for example, where the logic fails to convince, is simply too compressed, or distorted by forced antinomies. A case in point is her discussion of the secrecy of torture. On this she concludes, rather categorically, “The early modern practice of torture thus stands in *complete* opposition to the practice of torture in our own time” (p. 94; emphasis added). The distinction, she argues, hinges on secrecy: modern torture is secret in virtually every respect, while in the Old Regime, “as an administrative and judicial practice, it was a public practice” (p.93). Her own qualifications, however, undermine this early modern-modern opposition, for only the *fact* of torture was disclosed; all else—and certainly its imposition on the victim—was enshrouded by ritualized and insistent secrecy, making it hard to believe that its publicness was so essential. (After all, the Toulousain diarist Pierre Barthès, who seemed to know and tell all about legal matters and particularly executions, failed to register several cases of torture, as Silverman points out.)

Her discussion of the different tortures imposed on men and women also suggests a rather forced logic. She notes that, in Toulouse at least, men were often subjected to the *question d'eau* (which consisted of forcing water down the victim's gullet), while women suffered the application of an instrument, the *mordaches*, to the legs, which crushed the thigh against the calf. Though it seems she has only one case of female torture, an interpretation of gender-specific tortures is proffered nevertheless. The differences, she argues, were related to “male and female bodies as inversions of each other” (p. 98), basing her argument on Thomas Laqueur's *Making Sex*.^[1] Water was forced inside the bodies of men; the *mordaches* applied externally to women. Like male and female bodies, each form of torture was “the literal inversion of each other” (p. 98). But Laqueur's inversion model primarily pertains to the genitalia, not the entire body; and besides, his order of inversion—female as male turned outside in—would seem to argue for a reversal of the gender-specific tortures. Finally, her assertion that the medical discourse on pain (the subject of chapter five) played a role in fashioning the critique of torture in the eighteenth century is largely left unproven. It surfaces only marginally in the chapter that follows, which focuses on the nature of this critique.

Tortured Subjects treats a subject that, despite its historical remoteness, cannot fail to evoke thoughts about the persistence of torture in recent times throughout the world. No one, in other words, could deny its importance. Silverman has found just the right tone and mode to suggest this concern while still preserving the distance necessary for sober historical reflection. But its centrality in the culture—both legal and more general—of the Old Regime is another matter all together. Was it really a pressing concern for contemporaries? Was its practice so frequent as to arouse passions and interest? It cannot have been her intent, but Silverman's treatment of the Calas affair serves to suggest that it was less important to contemporaries than she thinks. Silverman spends several pages discussing the Calas case, the travails of Jean Calas, including his torture, Voltaire's celebrated intervention on his behalf—the whole *cause célèbre*. But nowhere does she note a specific reference to torture. She concludes, "The Calas case, then, provided the first significant occasion for public criticism of torture" (p.159). This may well be, but none is mentioned in *Tortured Subjects*. This leads to the question of its actual practice. As she notes several times, torture was in decline throughout the seventeenth century, and this decline continued into the eighteenth. Indeed, one of the most important results of her research is to give us a quantitative appreciation of the frequency of torture in one jurisdiction. Without going into the precise figures—which, as she notes, must remain approximate owing to the nature of the sources—she concludes that in the eighteenth century, "torture was ordered at least once annually in the *parlement* of Toulouse until the abolition of the *question préparatoire* in 1780" (p.74). Elsewhere she notes moments of decline throughout the seventeenth century. Of course she is correct in insisting that frequency is no indication of importance. Contemporary commentary might reveal a heightened concern far beyond the number of cases. Even here, however, she concedes later that in the eighteenth century writings criticizing torture were relatively few (p.165). (Incidentally, can we seriously believe that writers of these tracts really engaged in "dangerous radicalism" (p.165), given the fact that the monarchy would soon undertake to reform and then abolish torture in the 1780s?)

Finally, the infrequency of torture and the decline in its imposition as early as the first part of the seventeenth century calls into question Silverman's important claim that it was derived from deep-seated cultural and religious assumptions—the "sacramental embrace of pain" that found, in her view, increased legitimacy in the penitential exercises of so many magistrates. If torture was seen as so legitimate, indeed edifying, why was its practice diminishing? If they were so convinced of its effectiveness as an instrument of truth, why did not the courts resort to it more frequently, especially since there were few cultural prohibitions against it? Why, precisely when penitential piety was on the upswing, did the same magistrates who adopted a regime of mortification exhibit an increasing reluctance to impose torture on accused criminals? Unfortunately, the answers to these questions undermine Silverman's argument: the connection between penitential piety and torture is more tenuous than she would like to believe; the "sacramental embrace of pain" was less widely shared in the culture than she asserts. Indeed, they suggest that another question, the decline, not the persistence, of the practice of torture well before the Enlightenment, should have captured her attention.

Silverman concludes her book with a few, rather disparaging comments on the spirit of the philosophes' attack on torture. In short, she faults them for their elitism, for failing to attend to the experience of ordinary people. "[I]n their passionate and sentimental concern for the truth and for themselves, they failed to remember the peasants and artisans... who faced their torturers alone, with an ill understanding of what was about to happen to them. And in the space of forgetting," she adds, "the philosophes established the foundation of the culture in which we live..." (p.180). What does she

bemoan in our culture, the legacy of the Enlightenment? “[A] world in which ‘compassion fatigue,’ that ennui that envelops the witnesses to suffering, receives as much attention as does suffering itself” (p.180). The culture of the Enlightenment, to be sure, was in large part self-regarding and elitist, as might be expected from a movement perfectly at home in an aristocratic society. But surely individual philosophes exhibited a concern beyond themselves, often took great risks to improve and reform society, and vaunted usefulness, not ennui, as the proper response to suffering.

In these concluding pages, Silverman, like many others in academia today, engages in a polemical critique of the Enlightenment, both in its own terms and as “the foundation of the culture in which we live.” This is certainly her right, but it cannot help but provoke a response in kind. What alternative culture does she have in mind, compared to which the Enlightenment is found so lacking? One might judge compassion for the suffering of others as hopelessly self-regarding, ennui inducing, or an obstacle to meaningful action, but what can realistically be expected without it? Silverman expresses impatience with admittedly modest moves like sending letters on prisoners’ behalf under the aegis of Amnesty International. But in this abyss of suffering that is the world for so many, it seems strange to belittle small acts which, in the face of fanaticism, divisiveness, and cruelty, serve to affirm the notion of a common humanity.

NOTES

[1] Thomas Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge, Mass. and London: Harvard University Press, 1990).

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