

Torture Comes Out of the Closet

By Rebecca Gordon

In the last days of 2001 something new and strange began to happen in the United States. People – ordinary citizens and government officials alike – began to speak out publicly in favor of torture. In October of that year, the *Washington Post* reported that the U.S. government was considering using torture to interrogate those it deemed “terrorist suspects.”

“FBI and Justice Department investigators are increasingly frustrated by the silence of jailed suspected associates of Osama bin Laden’s al Qaeda network,” the *Post* reported, “and some are beginning to say that traditional civil liberties may have to be cast aside if they are to extract information about the Sept. 11 attacks and terrorist plan.” The government was considering several approaches, said the *Post*, including the use of “drugs or pressure tactics, such as those employed occasionally by Israeli interrogators, to extract information.” Also under consideration, the extradition of “suspects to allied countries where security services sometimes employ threats against family members or resort to torture.”

December saw the publication of a column by *Newsweek* magazine’s self-described “liberal” commentator Jonathan Alter entitled “Time to Think About Torture.” “In this autumn of anger,” wrote Alter, “a liberal can find his thoughts turning to... torture. OK, not cattle prods or rubber hoses, at least not here in the United States, but something to jump-start the stalled investigation of the greatest crime in American history.” He went on to suggest the application of methods of interrogation such as “shaking,” and wrote approvingly of the psychological tortures employed by the U.S. military in Panama. Like the government officials quoted by *Post*, Alter also suggested shipping detainees off to “Saudi Arabia, land of beheadings” or “transferring some suspects to our less squeamish allies” for questioning. There were some limits, however. “We can’t legalize physical torture,” Alter conceded, because, “it’s contrary to American values.”

In the same period, Harvard law professor Alan Dershowitz began to argue that we don't need to "legalize" torture, because the Constitution would already permit it – provided it is performed under properly-issued "torture warrants."

I quote the *Post's* report and Alter's column at some length here, not because they are uniquely shocking, particularly in the light of subsequent events, but because they illustrate so well the two main arguments of this essay. First I argue that U.S. involvement in torture is nothing new. For many years, the United States has covertly supported the practice of torture both internationally and within this country. Second, I suggest that in the post-9/11 period, U.S. government policy on torture has undergone a historic shift — from active but *covert* support to active and at least partially *overt* support. I conclude the essay by asking how the character of a nation might change when its government openly asserts its right to torture those it deems dangerous. What happens when torture really does cease to be "contrary to American values?" In this context, I introduce some concepts from the realm of philosophical ethics – in particular a branch of that discipline known as virtue ethics.

Any discussion of torture should begin with a definition. In this context the most useful one is probably that found in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the United States is a signatory (albeit with significant reservations). The Convention defines torture as

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

In other words, torture is state-sponsored terrorism practiced at the level of the individual. With this definition as a guide, let us begin a brief survey of U.S. involvement in torture before

that terrible day in 2001.

[Drop cap here] Before the terror attacks of 9/11, the biggest challenge for anti-torture activists was simply to demonstrate the U.S. government did support torture in its client states around the world. This was no easy task in the face of government silence and denials, and of public and mainstream media disinterest. Readers of *Peace Review* are likely quite familiar with the details of U.S. involvement in torture during the post-World War II period. In fact, this very familiarity illustrates the contradictory nature of such “covert” policies. Public indifference makes it quite possible to hide torture in plain sight.

Here, then is a very brief sketch of three different faces of that involvement: direct U.S. support for regimes that routinely used torture; U.S. provision of interrogation training generally to the police and military of repressive regimes; and, perhaps most contentious, the use of torture in jails and prisons inside the United States.

The case of Chile provides a fine example of direct U.S. support for torture regimes. For almost three decades prior to 2001, people around the world gathered every year on September 11 to remember the victims and to mourn the disappeared. September 11, the date now seared in our memories as numerical shorthand – 9/11— was also the day in 1973 when the Chilean military, led by General Augusto Pinochet, overthrew Salvador Allende’s elected socialist government in a bloody coup. The Nixon Administration gave Pinochet the go-ahead, and the CIA provided training and financing. During the following 17 years, the Pinochet government received full U.S. support as it routinely used torture and “disappearances” to neutralize any organized opposition. Amnesty International and Human Rights Watch report that as many as 250,000 people were detained during this period. Estimates of the number who were

tortured range from 40,000 to 100,000.

Pinochet's Chile was not the only torture regime to receive U.S. backing. That list is long, including such diverse states as Greece, Turkey, Nicaragua, Honduras, El Salvador, Brazil, Argentina, Indonesia, Iran, South Vietnam, apartheid South Africa, and, many would argue, Israel.

Training in torture: One continuing form of support for the Pinochet regime and others in Latin America was the training the U.S. government provided for their military and police. If there is a single preeminent symbol of covert U.S. involvement in torture it is surely the institution known as the School of the Americas, located at Fort Benning, Georgia. Under the guise of military and police “professionalization” and of training in protection of human rights, for half a century more than 60,000 members of Latin American military and police forces have studied the techniques of counter-insurgency and torture. In January 2001, under intense pressure from national and international campaigns, the Department of Defense made a cosmetic change, renaming the school the Western Hemisphere Institute for Security Cooperation, or WHISC. But its operations have not changed, and they continue to this day.

Home-grown torture: One aspect of U.S. torture policy that is truly hidden in plain sight is the treatment of people held in U.S. jails and prisons. It is ironic that Jonathan Alter should mention cattle prods and rubber hoses as items that ought not to be used “here in the United States.” It is precisely their well-known use in U.S. police stations and prisons that makes these instruments of torture so familiar to the U.S. imagination.

Occasionally, what is hidden becomes briefly visible. In 1992 Supreme Court Justice Harry A. Blackmun observed that

Various kinds of state-sponsored torture and abuse — of the kind ingeniously designed to cause pain but without a telltale ‘significant injury’ — lashing prisoners with leather straps, *whipping them with rubber hoses*, beating them with naked fists, *shocking them with electric currents*, asphyxiating them

short of death, intentionally exposing them to undue heat or cold, or forcibly injecting them with psychosis-inducing drugs-techniques, commonly thought to be practiced outside this nation's borders, are hardly unknown within this nation's prisons. [My emphasis]

The violent rape of both female and male prisoners is another form of torture so common in U.S. prisons that it is almost never mentioned except in reports issued by international human rights agencies.

One locus of psychological torture in U.S. prisons is the special facilities variously known as "Security Housing Units," "Control Units," or "Supermax facilities." Here, as Amnesty International reports, prisoners live in almost complete isolation in perpetually-lit eight-by-ten-foot rooms; they encounter no other human beings. Doors are opened and shut by remote control; meals appear through slots in cell doors. "The length of time inmates are assigned to such units varies," says Amnesty, "but some prisoners spend years, or even their whole sentence, in isolation."

U.S. support for torture regimes, U.S. training in torture techniques, and the inhumane treatment of prisoners in U.S. jails all point to systematic, structural support for the use of torture. In none of these examples, however, have officials *publicly endorsed* torture as a legitimate implement of state policy.

[Drop cap here] But "9/11 changes everything." As Cofer Black, then the CIA's counterterrorism chief told the House and Senate Intelligence Committees in 2002, "There was a before 9/11, and there was an after 9/11. After 9/11 the gloves come off." And when the gloves came off, things began to get bloody in a public way.

There is no need to recite here the full litany of acts of torture - from Iraq to Afghanistan to Guantánamo - that have been publicly revealed since the Bush Administration declared its War on Terrorism. What may be more useful is to present a brief taxonomy of official responses

to allegations of U.S. torture. The sheer volume and graphic nature of much of the evidence, prohibits the traditional defense that “*It didn’t happen.*” Everyone knows it is happening. But the meaning of what is happening is still up for grabs.

“*Well, maybe something happened, but it wasn’t very serious.*” This was the first-line response to Abu Ghraib of some Bush Administration supporters in the press and in Congress. Rush Limbaugh famously compared the tortures there, which resulted in at least one known death, to the fraternity high jinks of Yale’s Skull and Bones society. In a similar vein, Donald Rumsfeld deprecated the excruciating pain and lasting damage that can be wrought merely by immobilizing someone in a standing position. (See Elaine Scarry and John Conroy for more on this subject.)

“*It was just a few bad apples.*” This is the next official line of defense. In the days after the Abu Ghraib story broke, various officials, including Chair of the Joint Chiefs of Staff Richard B. Myers, Secretary of Defense Donald Rumsfeld, and President Bush himself hastened to assure the world that the torture at Abu Ghraib was an aberration. It did not represent, as President Bush told the Arab press, “the America that I know. The actions of these few people,” he insisted, “do not reflect the hearts of the American people.”¹ But as Seymour Hersh documents in *Chain of Command : The Road from 9/11 to Abu Ghraib*, responsibility for Abu Ghraib goes to the very top of the Bush Administration.

“*They deserved it.*” When the Abu Ghraib story broke, Republican Senator James Inhofe was outraged – at the outrage. According to CNN, Inhofe said that detainees at Abu Ghraib “are not there for traffic violations. If they’re in cell block 1A or 1B, these prisoners — they’re murderers, they’re terrorists, they’re insurgents. Many of them probably have American blood on their hands.” Here the justification for torture shifts from a (sadly) necessary method of

interrogation to righteous, albeit extra-legal, *punishment* of “insurgents.”

“*Maybe it’s not nice, but it’s not torture.*” Alberto Gonzales, now the U.S. Attorney General, advanced this view significantly during his service as White House counsel. As David Cole reminds us in his excellent *Enemy Aliens*, Gonzales had a Justice Department memo prepared containing some novel interpretations of the U.N. Convention against Torture. Among other provisions, it “permitted infliction of mental harm, so long as it was not ‘prolonged,’ and said that physical pain was permitted so long as it was less severe than the pain associated with ‘serious bodily injury such as organ failure, impairment of bodily function, or even death.’”

“*Even if it is torture, it’s not illegal.*” This is where the Administration’s position makes the definitive shift from denial to defense of torture. The same Justice Department memo quoted above also suggests that the president, and by extension, the nation, is not constrained by U.N. Convention against Torture. The memo asserts, says Cole, “that when acting as commander-in-chief, the president is *not* bound by international treaties or federal criminal laws banning torture.”

Another early assertion of the legality of torture appeared in a different 2002 memo, this one written by Gonzalez himself. The “War on Terrorism,” he argued, “is a new kind of war,” one in which the Geneva Conventions do not apply. This new kind of war “places a high premium on other factors, such as the ability to quickly obtain information from captured terrorists and their sponsors.... In my judgement, this new paradigm renders obsolete Geneva’s strict limitations on questioning of enemy prisoners...” The framers of the United Nations’ *Convention against Torture* anticipated the emergence of such new paradigms when they wrote that no “exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”²

That these two memos were later replaced with more inoffensive versions hardly matters. The administration has continued to maintain its right to torture. In his 2005 confirmation hearings, Gonzalez testified that U.S. laws against torture are not applicable in detention centers overseas, because the U.S. Constitution does not apply there. The Bush Administration has made a similar claim about Guantánamo, because is located on the island of Cuba.

Perhaps the most blatant official defense of the right to torture to date was the Bush Administration's quest to defeat Senator John McCain's 2005 bill outlawing torture of detainees. After weeks of fighting the bill, in December 2005, facing a veto-proof majority Congress, the president relented and signed it. However, as the *Boston Globe* reported in January 2006, the president simultaneously issued an official "signing statement" asserting "that he will view the interrogation limits in the context of his broader powers to protect national security." In other words, the president has overtly asserted his legal right to order torture, should he deem it to be in the interests of "national security."

[Drop cap here] Will the people of the United States accept this historic official shift from rejection to embrace of torture? This is an important question, and not only to those of us in *this* country who are concerned with the state of "American character." The unparalleled military power of the United States renders the content of American character a matter of concern to the entire world. In this context, a turn towards torture presents a new and serious danger. Perhaps a very brief excursion into the realm of philosophical ethics will help bring this danger into clearer focus.

How does the academic discipline of ethics view the problem of torture? Traditional approaches have generally deployed either utilitarian or deontological arguments. In most cases,

justifications of torture rely on utilitarianism – an appeal to the goal of achieving the greatest good for the greatest number. Opposition most often takes the form of appeals to Kant’s deontological injunction against treating a person’s humanity as a means rather than as an end in itself. What both approaches have in common, however, is that they consider torture as if it were an isolated act or set of acts, a possible sort of human behavior that erupts suddenly in contexts of extremity, and just as suddenly recedes.

I would argue that torture is better understood not as a discrete act or acts, but as a continuing, even a habitual, practice. In his reclamation of virtue ethics, *After Virtue*, Alasdair MacIntyre describes a “practice” as a “coherent and complex form of socially established cooperative activity...” A practice has a history and a set of standards of excellence. It is embedded in community that shares it and in some way initiates others into it. The habits formed by striving to achieve its standards of excellence form the community’s virtues.

It may seem absurd to speak of torture as a practice with a community, a tradition and standards of excellence. Much modern scholarship, especially in the social sciences, has focused on the ease with which ordinary people fall into participating in torture. To take a recent example, the outrages carried out at Abu Ghraib have been described as the work of people who found themselves transformed overnight from soldiers to torturers. Was not the very swiftness of this change part of its horror? In fact however, many scholars and historians of torture, such as Elaine Scarry and Mika Haritos-Fatouros, demonstrate that the practice of torture has its own histories, its own techniques and vocabulary ("the airplane," "dance," "the tea party,"), its own academies, its own rituals of initiation. From Greece to Brazil to Chile, the evidence shows that torturers are shaped through a formal, if brutal, process of inurement to one’s own and others’ suffering.

If we accept for the sake of argument that torture is a practice, what then are the habits of virtue, or as Aristotle called them, the “dispositions of the soul,” that the “good” torturer must develop? A full exposition is beyond the scope of this essay; I mention here only one such disposition, but one that is fundamental to the torturer’s practice: the capacity to suppress sympathy for the victim. This is done by consciously and actively denying the victim’s status as a person.

The literature on torture is replete with examples of this sort of depersonalization of torture victims. In her *Psychological Origins of Institutional Torture*, Mika Haritos-Fatouros reports that the Greek torturers she interviewed were taught to consider their prisoners as less than human, as “beasts” or “worms.” As torture proceeds, the debasement and humiliation of the victim only serve to reinforce the original impression that he or she is less than human. Perhaps the best-known example of this dehumanizing process from Abu Ghraib is the now-famous photograph of PFC Lynndie England holding a naked Iraqi man on a leash as if he were a dog.

At Guantánamo, detainees would seem to have fallen lower even than beasts in the minds of their jailers; they have become vegetables. In a reference to their orange jumpsuits, detainees are colloquially known as “carrots.” In *The Carrot Patch*, an amateur on-line video popular with Guantánamo guards, stick figure soldiers gleefully beat their hapless orange charges until they spurt satisfying quantities of animated blood (<http://www.stickdeath.com/qcamup.html>).

This tilt towards torture takes place, not in some backwater of world history, but in the most powerful nation the world has ever seen. An open embrace of torture is made all the more dangerous by the Bush administration’s general refusal to be bound by international laws and institutions. The people of this country may be all that stands between the world and a rogue super-power. Neither we nor the world can risk our developing the torturer’s “virtues.” As

Ronald Sundstrom argues elsewhere in this issue, we must – and urgently – develop a practice that opposes torture, and with that practice the crucial virtues of courage and human sympathy.

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