

Articles

“Hypothetical Torture in the ‘War on Terrorism’,” Kim Lane Scheppelle, *Journal of National Security Law & Policy*, vol 1, No. 2, 2005.

<http://www.mcgeorge.edu/jnslp/media/01-02/04%20Scheppelle%20Master%20c.pdf>

(A close examination and refutation of the “ticking time-bomb” hypothetical often cited as the circumstance in which torture would be justified and used to begin skiing down the slippery slope.)

See other articles in this issue of *JNSLP* with two symposia, “Fighting Terrorism with Torture: Where To Draw the Line?” and “Lawyers’ Roles and the War on Terror.” See

<http://www.mcgeorge.edu/jnslp/>.

Jane Mayer’s excellent articles in *The New Yorker*:

- “THE MEMO: How an internal effort to ban the abuse and torture of detainees was thwarted,” by JANE MAYER, *New Yorker*, February 27, 2006. Online at http://www.newyorker.com/fact/content/articles/060227fa_fact.
- Q. & A: In Gitmo. Jane Mayer talks about the treatment of detainees at the United States military detention center in Guantánamo Bay, Cuba. Online at http://www.newyorker.com/online/content/articles/050711on_onlineonly01.
- A REPORTER AT LARGE: “Can the C.I.A. legally kill a prisoner?” by JANE MAYER *The New Yorker*, Issue of 2005-11-14 at http://www.newyorker.com/fact/content/articles/051114fa_fact.
- A REPORTER AT LARGE: “The military trains people to withstand interrogation. Are those methods being misused at Guantánamo?” by JANE MAYER, *The New Yorker*, Issue of 2005-07-11 and 18, at http://www.newyorker.com/fact/content/articles/050711fa_fact4.

The December 26, 2005 issue of *The Nation* was devoted to The Torture Complex and included a number of useful articles by Anthony Lewis, Jonathan H. Marks, Lisa Hajar and others. See <http://www.thenation.com/issue/20051226>.

P. Sabin Willett, “Who’s at Guantanamo, Anyway?” an address at Woodrow Wilson School of Public and International Affairs, February 27, 2006. (An attorney representing Guantanamo detainees tells about who is actually being held there.)

http://www.fairgofordavid.org/pubdocs/willett_princeton_20060227.pdf.

David Gangsei, Ph.D., “Torture Treatment Programs Provide Holistic Care, Seek Pain Professionals’ Participation,” *American Pain Society Bulletin*, March/April 2003.

<http://www.ampainsoc.org/pub/bulletin/mar03/path1.htm>.

Torture and Other Secrets¹

John Calvi is a Quaker healer who has worked with tortured refugees since 1988. His website is www.johncalvi.com.

There are things we don't talk about much, secrets, because they are difficult. They are difficult because we don't have ways of thinking about them. We may not have ways to talk about them. We don't have much information on them. And, most importantly, they are ugly and scary. Each culture has a list of these secrets. The list changes as information escapes into conversation and ways of learning become possible for something previously obscure. In my own lifetime the list of American secrets has changed considerably so that subjects which were unknowable and impossible to speak about before have now become topics of study and common knowledge -- such as cancer, homosexuality, lynching, post-traumatic stress disorder in soldiers, incest, addiction, rape, and the holocaust.

A secret on this list moves slowly upward towards light as more people come to understand that something has parts and pieces and even logic and is not just a huge horror. The topics named here have shifted on the list as culture changes and progresses. What is still at the bottom of this list is torture. It is a great American secret still holding all the requisite characteristics: huge and horrible, ugly and scary, unknowable from so little information available, and present throughout many generations but especially today.

Like the car wreck we saw on the way home, we try not to see it again in our minds, though each image lingers with some part of us wanting to understand its meaning in our lives. The push not to see what is so ugly, and the desire to sort out what it is, push against each other. The battle is joined by American popular culture with its bias for bright shiny things for sale, and fast and shallow content giving only glimpses. Thus, torture stays on the list of things we don't see or know and therefore can't change.

Sometimes people are so sure they can't handle a profound and constant awareness of such terrible realities as torture or rape, that they shrink from acquiring *any* understanding. It will always be true that only a certain number of people will choose to work deeply in these areas as healers, witnesses, and teachers. But many more people can listen, think, and wonder a bit to learn what torture is and what it means for a society.

The spiritual consequences of secrets are well-known -- sudden potholes in integrity, surprise areas where knowledge is lacking, the panic of cover-ups, and the confusing combination of these three to create a response for which there seems to be no logic. Most obvious is the extraordinary effort to keep a secret hidden rather than open to wonder, wonder being the most basic posture of spiritual life.

The spiritual consequences of living in a world with torture are also quite specific. Either you are moved to act against it, or you stifle and smolder. For each of us who have paid for torture through our taxes, the dilemma is a cultural watershed. We have the cultural myth of the

¹ This article appeared in the November 2005 issue of *Peacework*, published by the New England Regional Office of the American Friends Service Committee, and reprinted with their permission.

independent force of the individual making change and doing good. But often this myth meets with a fierce don't-rock-the-boat mentality at home, at work, and in public spaces.

Choosing to act in resistance, in whatever way we can, has the light of integrity that comes from being one with our deepest feelings of justice, and this is always good for mental and spiritual health. It will also make for some disappointment, loneliness, and the need to explain yourself.

The other choice -- not to act -- is the more common response. It is common because life is already full, what might one do anyway, and aren't I in enough trouble already. These are the overt reasons to stuff and numb oneself. The more quiet reason is that it hurts to see and know what is. It's disturbing and we could let this one go by and forget. How much awareness do I need to keep up with anyway? The monster is too big for me to address. Both acting and not acting require energy and effort. Only acting has a payoff.

To have torture as part of the heritage we, as US Americans, have provided the world (think of the American wars in Southeast Asia and Central America), is to carry the loss of integrity, the ignorance, and panic of discovery in each of our hearts whether or not we approve of torture.

Torture has always been easy to justify but it has never rested within the human awareness to be comfortably carried. As a burden, it resembles the addict's stash or the bruise hidden under clothing -- maybe known of by others, unable to be laid down, and always a greater pain than is understood.

To have our leadership participate, deny, spin, and wink over the use of torture, lingers within us like glimpsing the car wreck, the neighbor's or family member's bruise, the addict's stash. We can't bear to know its scary ugliness but we can't get it out of our minds. There is no moral force in our country's leadership to say what we all know -- that torture injures all who know any aspect of it from any distance, that it shames all other good works done over hundreds of years, and that to do anything other than admit and stop is to participate. This is how a list of secrets is kept as heritage and burdens our children.

When the Torturers Come Home²

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Around the dinner table with my outwardly respectable family, my father's contributions to conversation were often tales of his exploits in World War II. I didn't know until much later that other children didn't have to sit through descriptions of horrific actions taken against "the enemy" by Army Intelligence and pretend that these were acts of heroism. I did, however, know early on that there was something wrong about them. I knew with the conviction of a child that it was wrong to throw grenades into crowded basements and then brag about it, or to laugh about machine-gunning deer for fun. And at some level, I guess I knew it was wrong to be able to talk about it with sufficient detachment that one could simultaneously be eating dinner, as though one were talking about baseball or the garden.

I also knew early on that my father was not always safe to be around. He was brilliant and successful --- and he was abusive and dangerous. Trying to figure out who was there at any given moment was hard. These days I think more about the time we spent in the family vegetable garden, building a vacation house, or fishing, than I do about the abuse he perpetrated on me and others, but it has taken fifty years to get here. I don't think he understood himself any better than those of us around him did. One moment he was the father who in 1960 gave me, a six-year old girl, a toolbox with real tools and let me put the bottom two rows of shingles on the new house. The next moment he would be sexually or physically or emotionally abusing me and acting as though that were perfectly normal.

I think he was himself an abused child. The photos taken of him before about age four and those taken later show markedly different affects. There is also a history of bipolar disorder in the family. My father's ability to dissociate, however, was more powerful than that of anyone I have ever known personally or professionally and I believe the war played a large role in that. One night he rose from the dinner table, took a wounded baby rabbit away from the family cat, walked to the kitchen disposal, dispatched it, and then returned to the table and resumed eating. A minute or two later he noticed that no one was eating, not my brother, mother or me, not the couple there as guests. "What?" he said, looking perplexed. "What's the matter?"

My father's threats about the awful things that would befall me if I told about what he was doing to me were frequent and real. I knew full well that he could and would kill me. The clincher was when he told me that even when he couldn't see me, God could -- and if I told, God would get me. The fact that I was trapped on a small fishing boat with him and he was calmly killing a fish as he told me this, made vivid what God would do. And I was very, very scared. Somehow, the idea that he would kill me had lost some of its edge. I think if you live with a threat long enough that happens, but in pulling God in, my father upped the ante.

² This article appeared in the November 2005 issue of *Peacework*, published by the New England Regional Office of the American Friends Service Committee, and is reprinted with their permission.

He also left me not wanting much to do with God for a long time. And when I did come back to God, I found myself angrier at my father than I had been in years because in my view he had, in using God as a threat, abused God as well as me. Thankfully, I was a seminary student at the time of this grappling and surrounded by loving friends and teachers who helped me to process the anger into grief and then begin to repair that piece of damage.

I think it takes a lot to wound someone so badly that they can do the kinds of things my father did, and over the years that is the way I have made at least a certain degree of peace with the side of him that was abusive of me and of others. I think that what he experienced and saw during the war turned a vulnerable young man into someone who could and did torture others, first in the context of war, then in the context of an ongoing relationship with the civilian intelligence community, and finally in the context of family.

I worry a lot about the young people who are experiencing today's Iraq war in our name. What will the legacy of their time in combat be? How many will participate in torture directly or indirectly? What will the impact be on them? What will be their legacy? It's harder for me to find compassion for the leaders who have sanctioned the abuse and who continue to protect each other. I have to work at remembering to pray for people who are abusive, and as the stories of Abu Ghraib and Guantánamo continue to emerge, those at the top seem much guiltier to me than those caught up in the system. Perhaps some day I will understand and forgive, but of course what I really want is a world in which young children don't have to wrestle with the demons their mothers and fathers bring home from war.

Arrested Development

By Arlie Hochschild
Published: June 29, 2005

Berkeley, Calif.

LAST month John Miller, director of the State Department's Office to Monitor and Combat Trafficking in Persons, said that half the victims of human trafficking may be children under 18. Children are "at the center" of the problem of trafficking, which, Mr. Miller noted, is one of the great human rights issues of the 21st century. Yes, children should be at the heart of our concern for human rights. But that concern should start with the children detained in American prisons in Afghanistan, Iraq and Guantánamo Bay.

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Under international law, the line between childhood and maturity is 18. In communications with Amnesty International and Human Rights Watch, the Pentagon has lowered the cutoff to 16. For this reason among others, we don't know exactly how many Iraqi children are in American custody. But before the transfer of sovereignty from the Coalition Provisional Authority to an Iraqi interim government a year ago, the International Committee of the Red Cross reported registering 107 detainees under 18 during visits to six prisons controlled by coalition troops. Some detainees were as young as 8.

Since that time, Human Rights Watch reports that the number has risen. The figures from Afghanistan are still more alarming: the journalist Seymour Hersh wrote last month in the British newspaper *The Guardian* that a memo addressed to Defense Secretary Donald Rumsfeld shortly after the 2001 invasion reported "800-900 Pakistani boys 13-15 years of age in custody."

Juvenile detainees in American facilities like Abu Ghraib and Bagram Air Base have been subject to the same mistreatment as adults. The International Red Cross, Amnesty International and the Pentagon itself have gathered substantial testimony of torture of children, bolstered by accounts from soldiers who witnessed or participated in the abuse.

According to Amnesty International, 13-year-old Mohammed Ismail Agha was arrested in Afghanistan in late 2002 and detained without charge or trial for over a year, first at Bagram and then at Guantánamo Bay. He was held in solitary confinement and subjected to sleep deprivation. "Whenever I started to fall asleep, they would kick at my door and yell at me to wake up," he told an Amnesty researcher. "They made me stand partway, with my knees bent, for one or two hours."

A Canadian, Omar Khadr, was 15 in 2002 when he was captured in Afghanistan and interned at Guantánamo. For 2½ years, he was allowed no contact with a lawyer or with his family. Seventeen-year-old Akhtar Mohammed told Amnesty that he was kept in solitary confinement in a shipping container for eight days in Afghanistan in January 2002.

A Pentagon investigation last year by Maj. Gen. George Fay reported that in January 2004, a leashed but unmuzzled military guard dog was allowed into a cell holding two children. The intention was for the dog to " 'go nuts on the kids,' barking and scaring them." The children were screaming and the smaller one tried to hide behind the larger, the report said, as a soldier allowed the dog to get within about one foot of them. A girl named Juda Hafez Ahmad told Amnesty International that when she was held in Abu Ghraib she "saw one of the guards allow his dog to bite a 14-year-old boy on the leg."

Brig. Gen. Janis Karpinski, formerly in charge of Abu Ghraib, told Maj. General Fay about visiting a weeping 11-year-old detainee in the prison's notorious Cellblock 1B, which housed prisoners designated high risk. "He told me he was almost 12," General Karpinski recalled, and that "he really wanted to see his mother, could he please call his mother."

Children like this 11 year old held at Abu Ghraib have been denied the right to see their parents, a lawyer, or anyone else. They were not told why they were detained, let alone for how long. A Pentagon spokesman told Mr. Hersh that juveniles received some special care, but added, "Age is not a determining factor in detention." The United States has found, the spokesman said, that "age does not necessarily diminish threat potential."

It's true that some of these children may have picked up a stone or a gun. But coalition intelligence officers told the Red Cross that 70 percent to 90 percent of detainees in Iraq are eventually found innocent and released. Many innocent children are swept up with their parents in chaotic nighttime dragnets based on tips from unreliable informants. "We know of children under 15," Clarisa Bencomo of Human Rights Watch told me, " held for over a year at Guantánamo Bay, whom the government later said were not security risks." Even if a child is found guilty, he or she should be treated humanely, rather than tortured or "rendered," as the C.I.A. puts it, to third parties that torture.

AMBASSADOR MILLER is right. Children matter. To really place them "at the center" of our human rights concerns, the United States should hasten to ratify the Convention on the Rights of the Child, from which only we and Somalia abstain. And if the Pentagon must detain children, it should do so in separate facilities, with access to family, and under humane conditions that include the offer of rehabilitation and education.

Finally, the Pentagon should open all prisons to human rights inspectors. By taking these steps, the United States could begin to reverse some of the terrible harm that continues to be done to children in our name.

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'There is no responsible use of torture'

A dangerous shift of norms

By Brita Sydhoff

If the entertainment industry, not least Hollywood, reflects a prevailing state of mind in the United States and the West in general, torture may be steadily gaining acceptance as a means of extracting information from suspects.

Or is it just a coincidence that the entertainment industry increasingly appeals to its audience through scenes of torture and violence at just this time when politicians and intellectuals are arguing in favour of interrogation methods that amount to torture, as a countermeasure in the so-called war on terror? In an earlier season of the popular Fox television series *24*, Counter Terrorist Unit (CTU) agent Jack Bauer fought a radical Islamist plot to cause meltdown at US nuclear power plants.

The series is highly entertaining, but it is also a test of its audience's views on the ticking-bomb scenario: are they prepared to condone torture if thousands of innocent lives are at stake? Is it acceptable, for example, when a CTU agent tortures his colleague's husband with electric cables in an attempt to extract the information that could possibly prevent the meltdown?

The fact that *24* presents the enemies of the US as dehumanised beings who are willing to kill even their own children in their terrorist fight against a democratic society suggests that the upholders of law and life are left with no alternatives, so that torture becomes acceptable in extreme situations.

The series also gives the impression that torture is not always as bad as its reputation. In one scene a CTU director used a stun gun repeatedly against a female staff member who was assumed to have knowledge that could prevent the meltdown. What was her reaction when the director realised she was not involved in the plot? She was disappointed with her superior for mistrusting her, but then demanded a pay rise and went back to her desk. Just another bad day at work.

This presentation of what we can call the torture dilemma, combined with the minimisation of the effects of torture, make it necessary to reiterate two facts that are increasingly questioned in anti-terrorism provisions:

- The prohibition against torture in international law is absolute: nothing can justify torture. This principle is reflected in the United Nations Convention Against Torture amongst other international law instruments. The logic is that allowing torture in exceptional circumstances would open a Pandora's box and would lead to a situation in which states would be at liberty to respond to perceived extraordinary crises by diluting existing definitions of torture.

In the words of the British law lord, Lord Hope of Craighead: "A single instance, if approved to meet the threat of international terrorism, would establish a principle with the power to grow and expand so that everything that falls within it would be regarded as acceptable."

The US detention camp at Guantánamo aptly illustrates the problem. The UN has recently criticised the US for using interrogation methods amounting to torture against detainees at the camp. The US government denies the charges, relying instead on its own interpretation of what constitutes torture, an interpretation that is far narrower than that of the UN convention, to which the US is a signatory.

- In the real world torture is even worse than its reputation. Torture is not only about the immediate pain; it is also about the all-encompassing fear associated with being completely at the mercy of one's torturers.

In most cases the actual physical and/or psychological abuse coupled with complete helplessness makes the victim's subsequent life a hell of depression, rage, anxiety, nightmares and feelings of guilt, which are a few of the common consequences of torture. The victim's family is heavily affected too. And all of this happens whether the victim is in fact "guilty" or not.

These two crucial factors - the slippery slope associated with questioning the absoluteness of the prohibition against torture, and the effects of torture in the real world - must be at the forefront of the debate at a time when leading democratic countries have implicitly and explicitly expressed reservations as to that absoluteness.

Any attempt to open a Pandora's box, in entertainment or the real world, should raise deep concern. Torture is not something you walk away from with a disappointed shrug, whether at the hands of your boss at the office, hooded thugs in a soundproof room at the back of the local police station, or foreign soldiers in the dungeons of Abu Ghraib. And it is no less torture when secret agents working for democratic governments use stun guns and electric cables to interrogate another human being than when the henchmen of dictatorships extract their victims' fingernails or burn them with irons.

Those who claim otherwise are playing a dangerous game, and contributing to a treacherous discourse that has developed in the context of the war on terror, a discourse that has caused a slow but unmistakable shift of norms and values to the point that it has become plausible to suggest that torture can be used in a responsible and morally sound fashion. It cannot.

In empirical terms, history does not give us one single example to support the claim that there can be such a thing as responsible use of torture. No torturing governments in the history of humanity, whether dictatorships or democracies, have limited their use of torture to indisputable ticking-bomb scenarios. If anything, the present US government's unclear policies on torture and the resulting abuses at detention facilities in Iraq and Afghanistan have confirmed the lesson that any opening, however small, that allows the use of torture will turn instantly into a festering gap, even when the perpetrator is a leading democracy.

The claim that there can be responsible use of torture ignores the fact that, even in theoretical terms, foolproof safeguards against mistakes (such as that of the stun gun incident in 24) are not possible. Nothing can establish beyond doubt that the guy in custody is the right guy. That the information leading to his arrest is 100% reliable. That he does not just look convincingly like the real guy. That he has not been set up.

The logical next step is to allow torture on the grounds of justified suspicion. And so it goes. Accept a shift of norms, however small and well argued, and you blow the lid off Pandora's box. Allow a little torture and no one will be entirely safe.

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Op-Ed Columnist

The Torturers Win

By BOB HERBERT

Published: February 20, 2006, The New York Times

Justice? Surely you jest.

Terrible things were done to Maher Arar, and his extreme suffering was set in motion by the United States government. With the awful facts of his case carefully documented, he tried to sue for damages. But last week a federal judge waved the facts aside and told Mr. Arar, in Effect, to get lost. We're in a new world now and the all-powerful U.S. government apparently has free rein to ruin innocent lives without even a nod in the direction of due process or fair play. Mr. Arar, a Canadian citizen who, according to all evidence, has led an exemplary life, was seized and shackled by U.S. authorities at Kennedy Airport in 2002, and then shipped off to Syria, his native country, where he was held in a dungeon for the better part of a year. He was tormented physically and psychologically, and at times tortured.

The underground cell was tiny, about the size of a grave. According to court papers, "The cell was damp and cold, contained very little light and was infested with rats, which would enter the cell through a small aperture in the ceiling. Cats would urinate on Arar through the aperture, and sanitary facilities were nonexistent."

Mr. Arar's captors beat him savagely with an electrical cable. He was allowed to bathe in cold water once a week. He lost 40 pounds while in captivity. This is a quintessential example of the reprehensible practice of extraordinary rendition, in which the U.S. government kidnaps individuals (presumably terror suspects) and sends them off to regimes that are skilled in the fine art of torture. In terms of vile behavior, rendition stands shoulder to shoulder with contract killing. If the United States is going to torture people, we might as well do it ourselves. Outsourcing torture does not make it any more acceptable.

Mr. Arar's case became a world-class embarrassment when even Syria's torture professionals could elicit no evidence that he was in any way involved in terrorism. After 10 months, he was released. No charges were ever filed against him.

Mr. Arar is a 35-year-old software engineer who lives in Ottawa with his wife and their two young children. He's never been in any kind of trouble.

Commenting on the case in a local newspaper, a former Canadian official dryly observed that "accidents will happen" in the war on terror. The Center for Constitutional Rights in New York filed a lawsuit on Mr. Arar's behalf, seeking damages from the U.S. government for his ordeal. The government said the case could not even be dealt with because the litigation would involve the revelation of state secrets. In other words, it wouldn't matter how hideously or egregiously Mr. Arar had been treated, or how illegally or disgustingly the government had behaved. The case would have to be dropped. Inquiries into this 21st-century Inquisition cannot be tolerated. Its activities must remain secret at all costs. In a ruling that basically gave the green light to government barbarism, U.S. District Judge David Trager dismissed Mr. Arar's lawsuit last Thursday. Judge Trager wrote in his opinion that "Arar's claim that he faced a likelihood of torture in Syria is supported by U.S. State Department reports on Syria's human rights practices."

But in dismissing the suit, he said that the foreign policy and national security issues raised by the government were "compelling" and that such matters were the purview of the executive branch and Congress, not the courts. He also said that "the need for secrecy can hardly be doubted." Under that reasoning, of course, the government could literally get away with murder. With its bad actions cloaked in court-sanctioned secrecy, no one would be the wiser. As an example of the kind of foreign policy problems that might arise if Mr. Arar were given his day in court, Judge Trager wrote:

"One need not have much imagination to contemplate the negative effect on our relations with Canada if discovery were to proceed in this case and were it to turn out that certain high Canadian officials had, despite public denials, acquiesced in Arar's removal to Syria."

Oh yes, by all means, we need the federal courts to fully protect the right of public officials to lie to their constituents.

"It's a shocking decision," said Michael Ratner, president of the Center for Constitutional Rights. "It's really saying that an individual who is sent overseas for the purpose of being tortured has no claim in a U.S. court."

If kidnapping and torturing an innocent man is O.K., what's not O.K.?

Roots of Abu Ghraib in CIA techniques 50 years of refining, teaching torture found in interrogation manuals³

By JAMES HODGE and LINDA COOPER

Last April when Americans found themselves looking at photographs of U.S. soldiers abusing naked and hooded Iraqis at Abu Ghraib prison, it's a safe bet that most didn't realize they were looking at torture techniques refined by the Central Intelligence Agency over the last half century.

The Bush administration worked overtime to convince Americans that what they were seeing was the work of a "few bad apples," whom the president said exhibited "disgraceful conduct" that "dishonored our country and disregarded our values."

Even as late as July, the Army's inspector general, Paul Mikolashek, claimed that "these abuses should be viewed as what they are: unauthorized actions taken by a few individuals."

A month later, after human rights groups pointed to evidence of much wider culpability, two government reports -- one released by an Army panel chaired by Major Gen. George Fay, the other by a commission headed by former Defense Secretary James Schlesinger -- confirmed what many already sensed: that the abuse went far beyond the seven arrested MPs.

The 171-page Fay report cites more than two-dozen military intelligence officers, along with several military contractors. It details some 44 incidents, including the stripping, hooding and sodomizing of detainees; subjecting them to temperature extremes; leading them around naked on leashes; and attaching electrical wires to their genitals. In one case, two naked youths were terrorized by snarling, unmuzzled military dogs held by military personnel who competed to try to make the teenagers defecate.

The two reports have been presented as sweeping indictments of U.S. military leadership, but Human Rights Watch, the largest U.S. human rights group, said the reports utterly fail to assess the obvious: the role that official government policies played in bringing about the horrendous abuse.

While the Schlesinger report notes administration policies -- such as the Aug. 1, 2002, Justice Department opinion that redefined torture as pain "equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death" -- it fails to evaluate whether the policies played a role in contributing to the abuses.

The Schlesinger panel, whose members were handpicked by Defense Secretary Donald Rumsfeld, "seems to go out of its way not to find any relationship between Rumsfeld's approval of interrogation techniques designed to inflict pain and humiliation and the widespread

³ This article was the cover story on The U.S. and Torture in the November 5, 2004, issue of *The National Catholic Reporter*. © The National Catholic Reporter Publishing Company, 115 E. Armour Blvd., Kansas City, MO 64111 All rights reserved.

mistreatment and torture of detainees in Iraq, Afghanistan and Guantánamo,” said Reed Brody, special counsel with Human Rights Watch.

Not only do they leave the dots unconnected, but they fail to make critical links to the past, said Alfred McCoy, professor of history at the University of Wisconsin-Madison and author of “Closer Than Brothers,” a study of the impact of the CIA’s torture methods on the Philippine military.

In an interview with NCR and in his own writings, McCoy described the photos at Abu Ghraib as snapshots of “CIA torture techniques that have metastasized over the last 50 years like an undetected cancer inside the U.S. intelligence community.”

Throughout the 1950s and early ’60s, the CIA -- the lead agency doing interrogations at Abu Ghraib -- financed and conducted secret research on coercion and human consciousness, McCoy said. “The scale of that research should not be minimized. By the late ’50s, it reached a billion dollars a year. The agency was providing the majority of the funding for a half-dozen leading psychology departments.”

The research ranged from using electric shock, to giving LSD to unsuspecting subjects, to employing sensory deprivation. It was the latter experiments that bore fruit, he said, producing a revolutionary new psychological torture paradigm that was superior to various physical methods that had been used for 2,000 years, from ancient Rome’s hot irons to the medieval rack and wheel.

“People will say anything to stop pain,” McCoy said. “The information extracted is inherently unreliable. And that’s the problem the CIA solved with these psychological methods.”

The basic techniques -- the use of stress positions, sensory deprivation and sexual humiliation -- are aimed at making victims feel responsible for their own pain and suffering. But McCoy added that while it appears less abusive than physical torture, the psychological torture paradigm causes deep psychological damage to both victims and their interrogators, who can become capable of unspeakable physical cruelties.

The results of the CIA torture experiments were codified in 1963 in a secret manual known as “KUBARK Counterintelligence Interrogation.” Four years later, the CIA was operating some 40 interrogation centers in Vietnam as part of its Phoenix Program, McCoy said. Eventually the CIA’s psychological methods were spread worldwide through the U.S. Agency for International Development’s Public Safety program and U.S. Army Mobile Training Teams.

In 1983, the KUBARK manual provided the model for the CIA’s “Human Resource Exploitation Training Manual,” whose methods were used by the brutal, U.S.-trained Honduran Battalion 3-16 during the tenure of then-U.S. ambassador to Honduras John Negroponte, now ambassador to Iraq.

About the same time, the CIA compiled the “Psychological Operations in Guerrilla Warfare” manual for the Nicaraguan contra commandos, then seeking to overthrow the Sandinista government with the aid of the Reagan administration.

That's not all. Six manuals, also linked to a CIA program, were used at the U.S. Army's School of the Americas and distributed across Latin America by Army Mobile Training Teams in the 1980s. They advocated everything from executions of guerrillas to extortion, coercion and false imprisonment.

A 1992 Pentagon investigation, whose findings were kept a secret of state under then-Secretary of Defense Dick Cheney, said the six manuals "evolved from lesson plans used in an intelligence course at [the School of the Americas]. They were based, in part, on old material dating back to the 1960s from the Army's Foreign Intelligence Assistance program, titled 'Project X.' This material had been retained in the files of the Army intelligence school at Fort Huachuca, Ariz."

Project X documents, which have been linked to the CIA's Phoenix Program, were destroyed in 1992 by the Defense Department, but a telling reference to Fort Huachuca is buried in the Fay report on Abu Ghraib. A five-member U.S. Army Mobile Training Team from Fort Huachuca was sent to the Iraq prison, the report says, "to conduct an overall assessment of interrogation operations, present training and provide advice and assistance."

One of the mobile team members, identified as SFC Walters, told the Fay panel that he "may have contributed to the abuse at Abu Ghraib." When questioned by a military contract employee for ideas on how to get the prisoners to talk, the report says, "Walters related several stories about the use of dogs as an inducement."

Walters also gave advice about how detainees are most susceptible during the first few hours after capture: "The prisoners are captured by soldiers, taken from their familiar surroundings, blindfolded and put into a truck and brought to this place (Abu Ghraib); and then they are pushed down a hall with guards barking orders and thrown into a cell, naked; and that not knowing what was going to happen or what the guards might do caused them extreme fear."

But the report concludes that it "is unclear and likely impossible to definitively determine" the extent to which "word of mouth" techniques were passed to the interrogators in Abu Ghraib by the Mobile Training Team from Fort Huachuca.

It also proved impossible for the Fay and Schlesinger panels to determine the extent of the CIA's role because neither had sufficient access to the agency. Both, however, pointed fingers in its direction.

The Fay report notes that the CIA's detention and interrogation practices "led to a loss of accountability, abuse, reduced interagency cooperation, and an unhealthy mystique that further poisoned the atmosphere at Abu Ghraib." It also states that CIA officers held "Ghost Detainees" -- including an Iraqi citizen later found dead in a shower, handcuffed with a sandbag over his head, and "three Saudi national medical personnel working for the coalition in Iraq" who were held under false names. The Army allowed the CIA to imprison unidentified and unaccounted-for detainees, thereby circumventing the "reporting requirements under the Geneva Conventions."

Likewise, the Schlesinger panel found that the “CIA’s detention and interrogation practices contributed to a loss of accountability at Abu Ghraib,” but it claims it did not have a mandate or “sufficient access to CIA information” to pursue the matter.

Fay concludes that techniques such as “removing clothing, isolating people for long periods of time, using stress positions, exploiting fear of dogs and implementing sleep and light deprivation” were “new ideas” that some U.S. interrogators at Abu Ghraib learned while working in Afghanistan and the U.S. Navy base in Guantánamo Bay, Cuba.

The methods, however, are anything but “new.” An examination of CIA interrogation manuals shows that they date back before the Vietnam War, supporting charges by human rights advocates that Abu Ghraib is no aberration. What is new is that photographic evidence became public.

Interrogation manual

The authors of the CIA’s 1963 KUBARK interrogation manual -- a guide on the art of using fear, threats and pain to cause debility or psychological regression -- were fully aware of the illegality of their methods: “KUBARK’s lack of executive authority abroad and its operational need for facelessness make it particularly vulnerable to attack in the courts or the press.”

The Fay report noted that the death of the Iraqi found in the shower remained unsolved due partly to the fact that “CIA officers operating at Abu Ghraib used alias’ [sic] and never revealed their true names.”

The KUBARK manual notes that prior approval “must be obtained for the interrogation of any source against his will and under any of the following circumstances: If bodily harm is to be inflicted” or “if medical, chemical or electrical methods or materials are to be used.”

Before using an interrogation site, “it should be studied carefully. ... The electric current should be known in advance, so that transformers and other modifying devices will be on hand if needed.”

It notes that psychological rather than physical debility will break a suspect sooner: “The threat of coercion usually weakens or destroys resistance more effectively than coercion itself. The threat to inflict pain can trigger fears more damaging than the immediate sensation of pain.” Elsewhere, it notes, “Intense pain is quite likely to produce false confessions, concocted as a means of escaping from distress.”

The manual, which cites numerous psychological studies and says all detainees should be given a psychological assessment, contains descriptions of different personality types and which techniques to use to interrogate them.

“If a coercive technique is to be used, or if two or more are to be employed jointly, they should be ... carefully selected to match his personality.”

“Persons with intense guilt feelings,” it advises, “may cease resistance and cooperate if punished in some way because of the gratification induced by punishment.”

All of the basic techniques used in Iraq are found in the manual’s pages: sexual humiliation, the use of stress positions and sensory deprivation.

The manual first advises that a suspect’s clothes should be taken. It later notes, “In the simple torture situation the contest is one between the individual and his tormenter. When the individual is told to stand at attention for long periods, an intervening factor is introduced. The immediate source of pain is not the interrogator but the victim himself.”

The manual lists the principal coercive techniques of interrogation as “deprivation of sensory stimuli through solitary confinement or similar methods, threats and fear, debility, pain, heightened suggestibility and hypnosis, narcosis [use of drugs] and induced regression.”

The response to coercion, it says, typically contains “at least three important elements: debility, dependency and dread.”

“Disrupting normal time patterns like sleep and food” can cause disorientation, fear, helplessness and regression. “Deprivation of stimuli induces regression by depriving the subject’s mind of contact with an outer world,” noting that inducing regression will dissolve resistance and create dependence.

“Results produced only after weeks or months of imprisonment in an ordinary cell can be duplicated in hours or days in a cell which has no light ... which is soundproofed, in which odors are eliminated, etc. An environment still more subject to control, such as water tank or iron lung, is even more effective.”

The manual also suggests threatening a detainee suspected of feigning mental illness by telling him that he might need “a series of electric shock treatments or a frontal lobotomy.”

The 1963 KUBARK manual -- and its descendant, the “Human Resource Exploitation Training Manual 1983” -- were both released in the 1990s with numerous deletions after The Baltimore Sun threatened the CIA with a lawsuit. The newspaper sought the manuals in connection with its 1995 series about the CIA-trained Honduran Battalion 3-16, a secret army unit whose torture methods mirrored those in the manuals.

Honduras, which shares borders with Nicaragua and El Salvador, was used by the Reagan-Bush administration in the 1980s as a base to fight Salvadoran rebels and to topple the Nicaraguan Sandinista government with the CIA-trained contra rebels.

Washington’s key man in Honduras was Gen. Gustavo Álvarez, a graduate of the U.S. Army’s School of the Americas, who created 3-16 with the CIA’s help and who worked closely with U.S. Ambassador John Negroponte, whose reports gave the impression that the Honduran military respected human rights.

However, Battalion 3-16 atrocities were detailed in a 1988 New York Times story, headlined “Testifying to Torture.” Florencio Caballero, a 3-16 interrogator who later fled to Canada, told the Times that the CIA trained him and two dozen others in psychological methods. They were taught “to study the fears and weaknesses of a prisoner. Make him stand up, don’t let him sleep, keep him naked and in isolation, put rats and cockroaches in his cell, give him bad food, serve him dead animals, throw cold water on him, change the temperature.”

Caballero said the CIA taught that psychological coercion was more effective than physical torture, but that interrogations often degenerated into physical torture. He told of a 24-year-old woman named Ines Murillo who was stripped, starved, deprived of sleep, beaten, burned, electrically shocked and sexually molested.

Fay’s Abu Ghraib report makes the same point about dehumanizing interrogations degenerating: “What started as nakedness and humiliation, stress and physical training, carried over into sexual and physical assaults.”

Human Rights Watch makes a similar point, saying that U.S. forces operating in Iraq, Guantánamo and Afghanistan have “used interrogation techniques including hooding, stripping detainees naked, subjecting them to extremes of heat, cold, noise and light, and depriving them of sleep -- in violation of the Geneva Conventions and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This apparently routine infliction of pain, discomfort and humiliation has expanded in all too many cases into vicious beatings, sexual degradation, sodomy, near drowning and near asphyxiation. Detainees have died under questionable circumstances while incarcerated.”

The 1983 CIA Human Resource Exploitation Training Manual states, “While we do not stress the use of coercive techniques, we do want to make you aware of them and the proper way to use them.” It states that if they are to be used, they always require “prior HQS approval.”

The Schlesinger report says U.S. interrogators at Guantánamo were required to get approval from Rumsfeld or the U.S. Southern Command before using certain methods such as hooding, stripping, 30-day isolations, stress positions and playing on a detainee’s phobias.

The 1983 manual advises that a subject should be arrested in the early morning when the subject “least expects it” and when it would cause “intense feelings of shock, insecurity and psychological stress.” He should be “rudely awakened and immediately blindfolded and handcuffed” and transported “by circuitous route.” Excessive force should not be used because “if they break the subject’s jaw, he will not be able to answer questions.”

Similarly, the Fay report on Abu Ghraib notes, “It became a common practice for maneuver elements to round up large quantities of Iraqi personnel in the general vicinity of a specified target as a cordon and capture technique. Some operations were conducted at night, resulting in some detainees being delivered to collection points only wearing night clothes or under clothes.”

The 1983 manual advises that the subject should be “completely stripped and told to take a shower. Blindfold remains in place while showering and guard watches throughout. Subject is given a thorough medical examination, including all body cavities.”

The Fay report noted that nudity likely “contributed to an escalating ‘de-humanization’ of the detainees and set the stage for additional and more severe abuses to occur.” Meanwhile, Dr. Robert Jay Lifton, writing in the July issue of the *New England Journal of Medicine*, said that evidence is mounting “that U.S. doctors, nurses and medics have been complicit in torture and other illegal procedures in Iraq, Afghanistan and Guantánamo Bay.” Doctors, he said, have “turned over prisoners’ medical records to interrogators who could use them to exploit the prisoners’ weaknesses or vulnerabilities.”

The “exploitation” manual goes on to say the interrogation room is the “battleground” where the interrogator “has total control over the subject” and can manipulate the environment “to create unpleasant or intolerable situations to disrupt patterns of time, space and sensory perception.”

The Fay report blames many of the abuses at Abu Ghraib on misinterpretations of a paragraph in an “outdated” 1987 Army field manual, which reads in part: “The interrogator should appear to be the one who controls all aspects of the interrogation to include the lighting, heating and configuration of the interrogation room, as well as the food, shelter and clothing given to the source.”

The 1983 interrogation manual states the subject should be placed in a soundproof cell and not allowed to relax. Furthermore, “there should be no built-in toilet facilities,” and the subject should “either be given a bucket or escorted by a guard to the latrine. The guard stays at his side the entire time.”

Cells should have windows that can be “covered to disrupt the sense of night and day.”

“Heat, air and light should be externally controlled.” Interrogators should disrupt the subject’s patterns of eating and sleeping. “Meals and sleep should be granted irregularly” to disorient the subject and destroy his capacity to resist. “If successful,” a handwritten note adds, “it causes serious psychological damage and therefore is a form of torture.”

The handwritten note was added in the mid-1980s after another CIA manual was made public and caused a public fury. Other revisions have also been written in, but the original text is still easily readable.

The manual also states, “Many psychologists consider the threat of inducing debility to be more effective than debility itself.”

Like KUBARK, the 1983 exploitation manual lists various personality types and how to deal with them during questioning. It advises making a psychological assessment to determine which personality category the subject fits in, noting “any psychological abnormalities ... what his potential vulnerabilities are. How he views his potential for surviving his situation.”

The subject must be convinced that the interrogator “controls his ultimate destiny.” The number of variations in techniques, the manual says, “is limited only by the experience and imagination” of the interrogator.

“The torture situation is an external conflict, a contest between the subject and his tormentor. The pain which is being inflicted upon him from outside himself may actually intensify his will to resist. On the other hand, pain which he feels he is inflicting upon himself is more likely to sap his resistance.” One example given was requiring the subject “to maintain rigid positions, such as standing at attention or sitting on a stool for long periods of time.”

In a section named “Coercive Techniques,” interrogators are advised not to make empty threats. “If a subject refuses to comply once a threat has been made, it must be carried out. If it is not carried out, then subsequent threats will also prove ineffective.”

“The purpose of all coercive techniques is to induce psychological regression in the subject.” However, if “the debility-dependency-dread state is unduly prolonged, the subject may sink into a defensive apathy from which it is hard to arouse him.” The symptoms most commonly associated with solitary confinement and sensory deprivation are “hallucinations and delusions.”

In an ambiguous note, interrogators are advised to ask themselves a cautionary question: If the subject is released, “will he be able to cause embarrassment by going to the newspapers or courts?”

The CIA developed the “Psychological Operations in Guerrilla Warfare” manual to help train Nicaraguan contras, whom the Reagan administration armed and financed in an effort to overthrow the Sandinista government in the 1980s.

Unlike the 1963 KUBARK and 1983 interrogation manuals, the CIA contra guide deals not with counterinsurgency measures, but with creating an insurgent force. Nevertheless, it is noteworthy in that it sheds light on the Reagan administration’s use of an abusive proxy army, its snubbing of international law, and again on John Negroponte, who was the ambassador to Honduras when the contras used Honduras as a staging ground to attack Nicaragua.

The manual, which The Associated Press exposed in a 1984 story, advocates that contras assassinate Nicaraguan officials, seize power through acts of torture and terrorism, and create “martyrs” by placing their supporters in “confrontation with the authorities, in order to bring about uprisings or shootings, which will cause the death of one or more persons, who would become the martyrs.”

The training manual, along with the CIA’s mining of Nicaraguan harbors, played a part in a ruling by the International Court of Justice that the United States had broken international law, should pay reparations and stop its war against Nicaragua. But the Reagan administration refused to recognize the court’s jurisdiction.

The current Bush administration has adopted the same stance toward the International Criminal Court, refusing to join the world’s first permanent war crimes tribunal, partly out of fear that the court could prosecute U.S. military personnel and their superiors. In addition, the Bush administration has withheld military aid and training to nations that refuse to sign “Article 98 waivers,” agreements stating that they will not extradite U.S. citizens accused of war crimes to the Hague for prosecution by the court.

SOA manuals

The six manuals used at the U.S. Army School of the Americas and distributed across Latin America by Mobile Training Teams were used from 1982 to 1991, throughout most of the Reagan and Bush administrations.

They carried the titles “Handling of Sources,” “Revolutionary War and Communist Ideology,” “Terrorism and the Urban Guerrilla,” “Interrogation,” “Combat Intelligence,” and “Counterintelligence.”

A 1992 Pentagon investigation of the manuals found that they advocated executions of guerrillas, extortion, physical abuse and coercion. The findings were kept secret until September 1996 when the Pentagon disclosed them, fearing that Congressman Joseph Kennedy had obtained a copy of the manuals.

Kennedy, who conducted a five-year campaign to close the school, told the media later that “according to the Pentagon’s own excerpts, School of the Americas students were advised to imprison those from whom they were seeking information; to ‘involuntarily’ obtain information from those sources -- in other words, torture them; to arrest their parents; to use ‘motivation by fear’; pay bounties for enemy dead; execute opponents; subvert the press; and use torture, blackmail and even injections of truth serum to obtain information.”

The “Revolutionary War” manual offers perhaps the most timely tie-in: maintaining that an insurgent “does not have a legal status as a prisoner of war under the Geneva Convention.” The current Bush administration has tried to reclassify POWs held at Guantánamo as “unlawful combatants” to strip them of protections under the Geneva Conventions.

Another manual advised counter-intelligence agents to use fear and false imprisonment. Up to 90 percent of the detainees at Abu Ghraib were falsely detained and had no connection whatever with terrorism, according to the International Committee of the Red Cross.

The School of the Americas, renamed in 2000 the Western Hemisphere Institute for Security Cooperation, has produced hundreds of human rights abusers, which the Pentagon has repeatedly called “a few bad apples.” Its 1992 Pentagon investigation also claimed that the manuals had been compiled from outdated instructional material, an argument also made by the Fay panel in its Abu Ghraib report.

The 1992 Pentagon report on the School of the Americas called it “incredible” that the use of the manuals “evaded the established system of doctrinal controls.” Nevertheless, the investigators “could find no evidence that this was a deliberate and orchestrated attempt to violate Department of Defense or Army policies.”

Kennedy, who did his own investigation, said the manuals were assembled at Fort Huachuca under the supervision of Maj. Richard L. Montgomery, who had worked in the CIA’s Phoenix program in Vietnam.

Despite the Pentagon's insistence that the material was not properly reviewed, Kennedy said, the training material was sent to the Pentagon for review, and it was returned to the School of the Americas approved and unchanged.

A similar defense has been mounted for the other interrogation manuals. The Reagan administration, for example, claimed that the CIA's contra manual had not been officially approved and was the work of an "overzealous freelancer" under contract with the CIA.

It's the photographic evidence that separates the current scandal from those in the past.

"We were caught red-handed," said Peter Kornbluh, a senior analyst for the National Security Archive. "I think the types of abuses and human rights atrocities committed by our allies like Augusto Pinochet had a degree of separation for the American public. But this scandal eliminates that distance. The abuse was not only committed directly by the U.S. military but it was captured on digital camera."

James Hodge and Linda Cooper are the authors of *Disturbing the Peace: The Story of Father Roy Bourgeois and the Movement to Close the School of the Americas*, published this fall by Orbis Books.

When seeking comment on the evidence that the torture techniques used at Abu Ghraib are not new, but have a 50-year history, NCR first talked to a Sgt. Watson at the Defense Department's press office.

Watson referred the call to Lt. Col. Barry Venable, who said he couldn't comment, that he was "not too familiar with the whole detainee operation." Venable turned the call over to his colleague, Lt. Col. John Skinner, who said he was not an interrogation expert and couldn't speak to what's been used in the past. Skinner, in turn, recommended calling the U.S. Army, which he said is "the executive agent for detention operations" and could provide a historical look at what "they might have used in previous conflicts."

Skinner suggested NCR call Army public affairs officer Dov Schwartz. Upon hearing the question about the history of the techniques, Schwartz referred us to Skinner. When told that Skinner had just sent the call to him, Schwarz then said to call Lt. Col. Barry Johnson in Iraq.

When asked if Johnson would know the history, Schwartz replied: "I don't know if any of us are going to know the history, but he's the best one I'm going to be able to give you."

Several calls to Johnson each ended in a recording that said, "The customer you have dialed is unavailable." There was no voice mail to leave a message.

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Against Torture⁴

David P. Gushee

“Amazingly, the evangelical community in America remains grotesquely silent about [torture]. Silence in a court of law implies agreement, and the court of world opinion watches and waits for an evangelical response.” --CT reader Dan Karns

I. Vignettes of Torture

“Three marines in Mahmudiya used an electric transformer, forcing a detainee to ‘dance’ as the electricity coursed through him.”

“On another occasion DETAINEE-07 was forced to lie down while M.P.’s jumped on his back and legs. He was beaten with a broom and a chemical light was broken and poured over his body....During this abuse a police stick was used to sodomize DETAINEE-07 and two female M.P.’s were hitting him, throwing a ball at his penis, and taking photographs.”

In Guantanamo, “burning cigarettes were placed in the ears of detainees.”

“A dog was allowed in the cell of two male juveniles and allowed to go ‘nuts.’ Both juveniles were screaming and crying, with the youngest and smallest trying to hide behind the other juvenile.”

“They threw pepper on my face and the beating started. This went on for a half hour. And then he started beating me with the chair until the chair was broken. After that they started choking me...And then they started beating me again. They concentrated on beating me in my heart until they got tired from beating me.” –accounts from US government and officially authorized investigations

A detainee “had been hooded, handcuffed in the back, and made to lie down, on a hot surface during transportation. This had caused severe skin burns that required three months’ hospitalization...” –International Committee of the Red Cross, February 2004

“In November 2002, an inexperienced CIA case officer allegedly ordered guards to strip naked an uncooperative young detainee, chain him to the concrete floor, and leave him there overnight without blankets. He froze to death, according to four U.S. government officials.” –Washington Post, November 2, 2005.

“al-Qatani was forced to perform dog tricks on a leash, was straddled by a female interrogator, forced to dance with a male interrogator, told that his mother and sister were whores, forced to wear a woman’s bra and thong on his head during interrogation, and subjected to an unmuzzled dog to scare him.” –Newsweek, November 21, 2005

⁴ This is the longer unedited version of the cover article in the February 2006 issue of *Christianity Today*. The unedited version was taken from Dr. Gushee’s website, <http://www.davidgushee.com>. The published version is available online at <http://www.christianitytoday.com/ct/2006/002/23.32.html>, along with related links and other articles.

“A former Iraqi general “died of asphyxiation after being stuffed head-first into a sleeping bag...at an American base in Al Asad.” –New York Times, October 23, 2005

Over 83,000 people have been detained in the “war on terror.” Roughly 14,500 are currently in custody. Over two hundred have been detained for more than two years. One-hundred-eight have died in US custody as of March 2005. Twenty-six of these deaths are being investigated as criminal homicides. --AP report, November 2005

II. Understanding Torture

The word “torture,” tellingly, comes from the Latin *torquere*, to twist. Amris and Arenas define it as “the infliction of *severe pain* (whether physical or psychological) by a *perpetrator* who acts *purposefully* and *on behalf of the state*” (italics in original). Webster’s Dictionary says that torture is “the inflicting of severe pain to force information and confession, get revenge, etc.”

According to international law scholar Lisa Hajjar, the governmental context is the key to understanding torture. It involves “purposefully harming someone who is in custody—unfree to fight back or protect himself or herself and imperiled by that incapacitation.” For Hajjar, the definition of torture hinges not so much on the specific details of various kinds of harm that human beings can do to one another, but on the fact that the tortured are prisoners in the custody of a government. They are persons upon whom suffering is inflicted for some public purpose.

This helps us understand our current moment. The debate in our nation today concerns whether various kinds of harm can be inflicted by those serving our government upon prisoners who are in our custody. Most particularly, the current debate focuses on what kinds of measures legitimately can be taken to extract information from prisoners held by us in the “war on terror” and/or the wars in Afghanistan and Iraq. As such, it is a debate about the proper use of government power in a liberal democracy.

As to the exact kinds of acts that constitute torture, there is no single precise definition—they seem to fall along on a continuum, but this does not signify that the meaning of the term is infinitely elastic. International agreements that deal with torture provide some clues. The 1948 Universal Declaration of Human Rights simply states that “no one shall be subjected to torture or to cruel, inhuman, or degrading treatment.” Article 17 of the Third Geneva Convention (1949) asserts that “no physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war,” but instead, “persons taking no active part in the hostilities...shall in all circumstances be treated humanely.” The 1985 UN Convention Against Torture defines it as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person.” The United States is a signatory to all of these international declarations and historically has incorporated their principles into military doctrine. For example, the 1992 (current, though under revision) U.S. Army Field Manual tells soldiers that “[Geneva] and U.S. policy expressly prohibit acts of violence or intimidation, including physical or mental torture, threats [or] insults...as a means of or aid to interrogation.”

Mark Bowden, a military scholar and author of *Black Hawk Down*, reminds us that torture is “a crude and ancient tool of political oppression,” practiced by governments for various reasons through the centuries and by many still in our own time. The kinds of acts most often classified

as torture make for a dreary catalog of pain. They include slicing tongues out, beatings with clubs, use of electric cattle prods, employment of mind-altering drugs, sticking pins under or through fingernails, cutting off fingers, hands, ears, noses, or other body parts, and so on. There is no end to inventive ways of harming the bodies and minds of other human beings.

When the current U.S. president says of the United States that “we do not torture,” perhaps these kinds of acts are what he has in mind. But it is now clear that since September 11, 2001 the Bush Administration, chafing under the perceived constraints of the ban against torture, has attempted to carve out room for acts that brush up against the boundary line separating aggressive interrogation from torture without (they believe) crossing over it. Called “enhanced interrogation techniques,” “professional interrogation,” “moderate physical pressure,” or even (by outside analysts) “torture lite,” these have included a variety of measures, some approved as policy by our government and others not publicly acknowledged or approved but found by both independent and government investigators to have occurred in our detention facilities.

Among the sometimes approved measures have been prolonged standing, removal of detainees’ clothing, sensory deprivation, hooding (often with smelly hoods), prolonged interrogations, use of dogs, shaving of beards, grabbing, poking, or pushing, sleep adjustment/deprivation, and waterboarding (dripping water onto a wet cloth over the detainee’s face, which feels like drowning).

Among the (apparently) unapproved but practiced measures, some of which were mentioned at the beginning of this article, have been punching, slapping, and kicking detainees, religious and sexual humiliation, prolonged shackling, exposure to severe heat or cold, food or toilet deprivation, mock or threatened executions, letting dogs threaten and in some cases bite and severely injure detainees, and taking photographs of such things as well as of dead detainees.

The abuses (that is, unapproved measures) appear to have been particularly prevalent in military intelligence interrogations, among private U.S. contractors serving the military, and among the underprepared and poorly trained military police at places like Abu Ghraib. There are also profound worries and disturbing allegations about what is going on with “high value” detainees in CIA interrogations at undisclosed locations, and certainly about what is happening to prisoners “rendered” to other countries (many known to practice torture) by our government. Lack of any access to such sites or prisoners makes it impossible to know what is happening in these cases.

Internal Bush Administration documents reveal various efforts to define either acts or prisoners in such a way as to permit at least the approved measures just described. *Techniques* that many consider torture, or tantamount to torture, have been renamed as “enhanced interrogation.” While “torture” has been officially rejected, the Administration balks at any legal restriction on “cruel, inhuman, or degrading” treatment of detainees, at least if not held on U.S. soil. *Prisoners* held in the war on terror generally have been viewed as “unlawful combatants” and thus beyond the reach of American criminal, civil, or most military law protections or of international law. By defining torture and the applicability of law narrowly--and military necessity in the “war on terror” broadly--the U.S. government has made official room for acts against detainees that have never before been officially approved by our government, whether we would choose to classify them as “torture lite” or “torture” or something else. The question before us is whether, as

Christians, we can support our government in this movement into the neighborhood of torture and sometimes across the borderline into torture. I believe the answer is a clear No.

III. Where and how is torture prohibited?

The ban on torture in international law, as Hajjar notes, “is stronger than almost any other human right because the prohibition of torture is absolutely non-derogable and because the law recognizes no exceptions. What this means is that no one—ever, anywhere—has a ‘right’ to torture, and that everyone—always, everywhere—has a right not to be tortured. It also means that anyone who engages in or abets torture is committing a crime.”

The prohibition on torture has been understood since the late 1940s as both a matter of fundamental human rights and a right accorded to prisoners of war. In other words, no human being may be tortured, just because they are human. And no prisoner of war may be tortured, not just because they are human but particularly because they are prisoners of war and as such are covered by various protections in international law. Both understandings were deeply affected by the atrocities that occurred against civilians and P.O.W.’s during World War II.

This ban on torture has roots deep in the emergence of liberal democracy, because, as Michael Ignatieff has written, “liberal democracy stands against any unlimited use of public authority against human beings, and torture is the most unlimited, most unbridled form of power that one person can exercise against another.” Therefore it is one of the strongest international legal prohibitions in existence; once ratified and codified by states it becomes part of each nation’s law as well. Hajjar points out that at least in legal terms the right not to be tortured is actually stronger than the right to life: “There are many circumstances in which people legally can be killed, but none under which people legally can be tortured.” For example, it is perfectly legal (however tragic) to kill an enemy combatant in wartime, but not at all legal to take that same person into custody, disarm him, and then torture him.

And this prohibition on torture in international law quite explicitly admits no exceptions. The UN Convention Against Torture puts it this way: “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 for torture.”

The U.S. ratified this convention in 1994, before September 11th, before our launch of the war on terror. Now many Americans and certain leading Administration officials believe that acts at least tantamount to torture are indeed morally permissible in the exceptional case posed by Islamist terrorism. As State Department official Cofer Black famously put it: “All I want to say is that there was before 9/11 and after 9/11. After 9/11 the gloves came off.” Here is why I believe that, regardless of 9/11, the absolute prohibition of torture remains a moral and legal norm that should not be weakened.

IV. A Moral Analysis of Torture

Let me begin by granting the obligation of government to preserve public order and protect the security of its population. This principle is recognized in international law, moral thought, and public opinion. For Christians, it is clearly stated in Romans 13:1-7. Government deters

violations of peace and order, punishes wrongdoers, and does all it can to advance the common good within the limits of its mandate. This work of government does involve the sword; that is, coercion, and in necessary cases, violence. Various legal and moral restrictions are placed on government as it exercises this fearsome power. It is generally understood that government officials must use the minimum force necessary to accomplish their missions.

Let me also grant that the terrorist attacks of September 11th were one of the most heinous acts ever visited upon this nation and a clear violation of the laws of war and of any kind of civilized moral code. Terrorist acts around the world since then remind us that our nation, along with many others, faces the threat of enemies who do not adhere to the kinds of moral scruples that we are considering in this essay.

Finally, I also grant the point that Mark Bowden makes in arguing that there is a built-in tension between what he calls the “warrior ethic” and the “civilian ethic.” For the warrior, the goal is to accomplish the mission. For the civilian, the goal is to preserve the rule of law. Even if we grant that well-intentioned warriors also recognize the importance of the rule of law, and that well-intentioned civilians recognize the importance of accomplishing the mission, their passions and priorities tend to differ. They will always stand in some tension with one another. Managing this tension is a major challenge in any civilized society. I acknowledge that I write from the civilian side.

So I do not write to demonize those who believe that protecting our nation’s security, and preventing the horror of another September 11, requires the use of interrogation techniques that could be classified as at least borderline torture. But I do believe that the case against this move is far stronger than the case for it. Here is why:

(1) Torture violates the intrinsic dignity of the human being, made in the image of God.

The human person is a creation of God. Every inch of the human body and every aspect of the human spirit come from God and bear witness to his handiwork. We are made in the image of God (Gen. 1:26-28). Human dignity (value, worth) comes as a permanent and ineradicable endowment of the Creator, to every person.

Recognition of the intrinsic dignity of the human being requires a corresponding restraint in our behavior toward all human beings. Christians, at least, should be trained to see in every person the imprint of God’s grandeur. This should create in us a sense of reverence or even sacredness. Here, we say—and we say it even of detainees in the war on terror—is a human being sacred in God’s sight, made in God’s image, someone for whom Christ died. No one is *ever* “subhuman” or “human debris,” as Rush Limbaugh has described some of our adversaries in Iraq. An inchoate sense of the proper reverence due to every human person makes its way even into “secular” and public codes, such as international legal documents. These texts may not be able to say why human beings should be treated with respect but they know that this is in fact a binding obligation. Christians can say why: because this “detainee,” even this “terrorist,” if he is one, is a child of God, made in God’s image.

A moral commitment to the dignity of the human person is sometimes fleshed out in terms of human rights. Just because they are human, on this view, people have rights to many things,

including the right not to be tortured. Christians sometimes debate the legitimacy of “rights-talk,” partly because it is a language often overused in modern debate and partly because we think about how Jesus gave up all of his “rights.” Just because someone claims a “right” does not mean that it is a right. But I believe that at least an implication of a biblical understanding of human dignity is the existence of a set of human rights. Among the most widely recognized of these in both legal and moral theory is the right to bodily integrity; that is, the right not to have intentional physical and psychological harm inflicted upon oneself by others. The ban on torture is one expression of the right to bodily integrity.

The absoluteness of such human rights can be debated. Following the categories of Catholic moral reasoning, Robert G. Kennedy has argued that even the most widely recognized human rights, such as the right to life or the right not to be tortured, are absolute in *existence* but not *extent*. What this means is that while the right not to be tortured applies to all persons, like all rights it can, at least in theory, be qualified by other rights and by the requirements of justice. Kennedy argues that “defensive interrogatory torture” (and only this kind of torture) may be morally legitimate under very carefully qualified conditions. And yet he goes on to argue that “it is quite likely that most instances in which interrogatory torture is employed would not conform to these principles and so would be immoral.”

Whether we open the door to torture just a crack, as Kennedy suggests, or keep it firmly shut as an absolute ban, as I believe, the principle of human dignity and its correlated rights remains a transcendently important reason to resist the turn toward torture. And because rights correspond with obligations, all of us who recognize the human right not to be tortured have an obligation to protect those rights. This is an obligation—I say it with sorrow—that as Christians, and as Americans, we have not been meeting in the last four years.

(2) Torture mistreats the vulnerable and thus violates the demands of public justice

Lisa Hajjar points out that torture, by definition, is something that a government does to a person in its custody. Imprisoned people are vulnerable people. Whatever they did, or may be suspected of having done, once in our hands they are completely vulnerable to us.

Justice has many meanings and can be defined in many ways. But it is clear in the Scriptures that God’s understanding of justice tilts in the direction of the vulnerable. “Do not mistreat an alien or oppress him, for you were aliens in the Egypt. Do not take advantage of a widow or an orphan. If you do and they cry out to me, I will certainly hear their cry” (Ex. 22:21-23). As this text suggests, primary forms of injustice include the violent abuse and domination of the powerless by the powerful and their exclusion from participation in a community that cares about their rights and needs.

One reason why there are so many layers of procedures and protections given to accused and imprisoned persons in our legal system (and to prisoners of war in international law) is precisely their powerlessness at the hands of government authority. Justice requires attempting to balance the scales so that defenseless people are not overpowered or abused by governments. This is especially important in any legal system, which has the power to deprive people of their liberty, and sometimes their lives.

The 83,000 people who have been detained by our government and military in the last four years are, by definition, as prisoners, vulnerable to injustice. Those of them who have been abused or mistreated by representatives of our nation—as in the examples cited in this essay—are victims of injustice, however carefully we may define or excuse the treatment that we have meted out to them. They were in our hands and we abused our power over them. They were dominated, harmed, abused, and sometimes violated physically, even murdered. Christians must learn to care about justice—more, we must develop a deep passion for justice, the kind of passion for justice that God has, the one who hears the cries of the oppressed and dominated (Ex. 2:23-25). Torture is an injustice and must be protested as such.

(3) Authorizing any form of torture trusts government too much

Human beings are sinful through and through (Rom. 3:10-18). We are not to be trusted. We are especially dangerous when unchecked power is concentrated in our hands. This applies to all of us.

So certainly it is likely that authorizing even the “lightest” forms of torture risks much abuse. As Richard John Neuhaus puts it, “We dare not trust ourselves to torture.” Or as Gary Haugen recently wrote, “Because the power of the state over detainees is exercised by fallen human beings, that power must be limited by clear boundaries, and individuals exercising such power must be transparently accountable.”

Haugen rightly emphasizes both the procedural and substantive regulation of detainee interrogation. Given human sinfulness, it’s not just that people should be told not to torture, but also that structures of due process, accountability, and transparency must buttress those standards to make them less likely to be violated and subject to redress if violated. This is what is so dangerous about the discovery of secret CIA prisons in Europe and “ghost detainees” who are located no one knows where. As Manfred Nowak, UN special rapporteur on torture said at the time the CIA’s secret prisons were revealed, “Every secret place of detention is usually a higher risk for ill treatment, that’s the danger of secrecy.” Just because U.S. government officials say that we can be trusted to act “in keeping with our values”—without due process, accountability, and transparency—does not make it so. No government is so virtuous as to be able to overturn the too often verified laws of human nature, or to be beyond the need for democratic checks and balances.

(4) Torture invites the dehumanization of the torturer

In reflecting on torture, Mark Bowden concludes that sometimes it is the right choice. But even so, he worries, “how does one allow it yet still control it? Sadism is deeply rooted in the human psyche. Every army has its share of soldiers who delight in kicking and beating bound captives. Men in authority tend to abuse it—not all men, but many. As a mass, they should be assumed to lean toward abuse.”

Loosening longstanding restrictions on physical and mental cruelty toward prisoners risks the dehumanization not just of the tortured but the torturers. What may be intended as carefully calibrated interrogation techniques easily tempt their implementers in the direction of sadism—pain infliction for the sheer fun of it, especially in the heat of military conflict, in a climate of

fear and loathing of the enemy, and in the context of an endless war on terror. How many of us could be trusted to draw the line consistently between the permitted “grabbing, poking, and pushing,” on the one hand, and the banned “punching, slapping, and kicking,” on the other? How much self-control can we reasonably expect people to exercise? And once the line has been crossed to torture, as Michael Ignatieff claims, it “inflicts irremediable harm on both the torturer and the prisoner.”

Frederick Douglass commented famously on how holding a slave slowly ruined the character of the woman who owned him. Martin Luther King frequently talked about how in a sense the greatest victims of segregation were the white people whose souls were deformed by their own hatred. Alexander Solzhenitsyn, reflecting on the Soviet Gulag, said that “our torturers have been punished most horribly of all: they are turning into swine, they are departing downward from humanity.”

War threatens the dehumanization of all sides and all parties. This is why there are so many limits placed on how wars may be fought. The ban on torture is one of those limits, and for good reason.

(5) Torture erodes the character of the nation that tortures

A nation is a collective moral entity with a character, an identity across time. Causes come and go, threats come and go, but the enduring question for any social entity is who “we” are as a people. This is true of a family, a church, a school, a civic club, or a town. It is certainly true of a nation.

Senator John McCain, who has led the Republican charge against the drift toward torture, has said, “This isn’t about who they are. This is about who we are. These are the values that distinguish us from our enemies.” In a November *Newsweek* article, he put it this way: “What I . . . mourn is what we lose when . . . we allow, confuse, or encourage our soldiers to forget that best sense of ourselves, that which is our greatest strength—that we are different and better than our enemies, that we fight for an idea, not a tribe, not a land, not a king . . . but for an idea that all men are created equal and endowed by their Creator with inalienable rights.”

McCain is saying something very important here. His worry is that any move toward torture threatens our national character, our shared values, and our goodness as a nation. He rightly acknowledges that our Islamist terrorist enemies do not share our commitment to the rule of law, to human rights, to procedural justice, to limits on what can be done for the cause, however holy. This is tragic, even evil, and it makes them a particularly lethal and insidious threat, but it does not somehow settle the question of how we as a nation should respond.

We often say in church circles that people of integrity respond to life on the basis of scriptural principles, not preferences, feelings, or circumstances. We act on the basis of who we are, not who others are. If someone is ruthless to us at work this does not authorize biblical people to be equally ruthless in return. If someone violates their covenant with us it does not authorize us to do the same to them. Mature persons, and nations, know what their core values are and seek to act in every circumstance in a manner consistent with those values. If they abandon those values when severely tested, it raises real questions as to how deeply such values were ever held.

(6) Torture risks negative consequences at many levels

Those who know anything about moral theory know that the argument for torture is essentially a utilitarian one. Some are willing to torture because they believe it is the best means available to protect the 300 million people who live in this country. Hundreds/thousands of (foreign) detainees suffer as the price of protecting millions of us. Thus we achieve the greatest good for the greatest number of people.

Utilitarianism is a deeply flawed moral theory, as has been shown by many. In emphasizing intrinsic human dignity, and concerns about both personal and national character, I have implicitly rejected any purely utilitarian argument for (or against) torture. Indeed, because I believe that torture is intrinsically wrong, it poses a risk to the very argument I am making even to entertain utilitarian considerations. But because many policymakers and citizens at least implicitly operate from a utilitarian framework, it must be addressed here.

The greatest gain promised by the resort to torture is that it might extract information from suspects that would otherwise be unavailable. In the most sensational and widely discussed scenario—the so-called ticking bomb case—utilitarians argue strongly that the torture of one terrorist at a pivotal moment could in turn save thousands of lives, and thus it must be permitted.

In a brilliant utilitarian analysis of what an institutionalized torture regime might look like, and what its consequences might be, Jean Marie Arriga has suggested a number of difficulties even for a utilitarian approach to torture.

For example, and as many others have noted, there is abundant evidence that people will say anything under torture, just to stop the pain. It is not just that they will be intentionally deceptive, but even more that after sufficient torture they may lack the mental ability to distinguish between truth and falsehood or to convey the truth. If the goal of torture is to extract critical information, these problems are obviously profound. Several news agencies have reported that information apparently gained from torture has proven false—after being announced as an important intelligence score by the U.S. government. The overall reliability of intelligence gained from torture remains the subject of great controversy.

The ultimate goal in gaining this information is to protect national security. However, there is good reason to wonder whether the use of torture more deeply motivates extant terrorists, and turns more people from concerned bystanders into hardened terrorists, than any intelligence benefit that might be gained. An editorial in the Vancouver Sun put it well: “Those subjected to physical torture usually conceive undying hatred for their torturers.” One must therefore also consider the greater likelihood that American civilians (here or especially abroad) and American troops overseas will be subject to torture (or terror) by aggrieved enemies.

Further, as has already happened, sometimes the consequences of torture are worse than intended, as when victims die prematurely due to the physical or mental toll. From a utilitarian perspective the main problem here is that a dead person cannot give you any information whatsoever. And, of course, as news of deaths trickle out, moral outrage scandalizes the

torturer's own people, the families and communities of the persons who have died in custody, and general world opinion.

Arriga's most original insights concern the unintended but likely institutional consequences that can and often do flow from a torture regime. For example, medical and psychological practitioners become involved in enhancing and medically managing torture techniques, thereby risking the corruption of these institutions which are supposed to serve as agents of healing—or evoking their opposition. Biomedical specialists are recruited to study and develop torture, and torture resistance, techniques. Special torture interrogation units are established, with training in especially sophisticated methods of torture and a consequent demoralization and negative effect on other governmental and security institutions. The use of rogue torture interrogation services, such as organized crime, covert U.S. torture agencies, and brutal foreign intelligence services also poses severe problems in terms of command and control of torture operations and the empowerment of rogue elements here and abroad. Arriga's article was published in 2004; one wonders how many of her concerns already are uncomfortably close to hitting their mark in our own case.

The “ticking bomb” case is theoretically important but in actuality a red herring. It has been wisely said that “bad cases make bad law” and this is true here. The percentage of such ticking bomb cases among the 83,000 people we have detained must be less than infinitesimal. It is just as foolish to legitimize the practice of torture because of this rare possible exception as it would be, say, to legitimize the practice of adultery because of the possibility that someone might have to commit adultery to save their child's life from a criminal who demands sex in exchange for the child's survival.

Much ink has been spilled considering how to handle these very rare ticking bomb cases. Perhaps the most widely discussed proposal has been Alan Dershowitz's suggestion that we permit torture only through a “torture warrant” signed by a judge or a very high government official, such as the president himself, who would therefore bear full legal, political, and moral responsibility.

This would certainly be better than what we are doing now. But I think that any potential resort to torture in rare, ticking bomb cases would be better handled within the context of an outright ban. The grand moral tradition of civil disobedience, for example, specifies that there are instances in which obedience to laws must be overridden by loyalty to a higher moral obligation. These are usually unjust laws but this is not always the case. Dietrich Bonhoeffer participated in an assassination plot against Hitler but did not argue for the rewriting of moral prohibitions of political assassinations. He was prepared to let God and history be his judge. If a one-in-a-million instance were to emerge in which a responsible official believed that the ban on torture must be overridden as a matter of emergency response, let him do so knowing fully that he would have to answer for his action before God, law, and neighbor. This is a long way from an authorized torture regime.

V. Against Torture

Long ago, German philosopher Immanuel Kant wrote about the perennial human tendency to find exceptions to binding moral rules when those obligations bind just a bit too tightly on *us*.

“Hence there arises a natural...disposition to argue against these strict laws of duty and to question their validity, or at least their purity and strictness; and, if possible, to make them more accordant with our wishes and inclinations, that is to say, to corrupt them at their very source, and entirely to destroy their worth.”

I believe that this is the best explanation for what is happening on the issue of torture in our nation. *Our current crisis represents our succumbing to the temptation to waive moral rules that we have every reason to know are applicable to us.* They are part of international law, military law, and moral law. We would certainly not want our troops or our “detainees” or ourselves to be tortured were the shoe on the other foot. We know that torture is wrong, but just not now, not in our exceptional case, not in this global war on terror. We are tempted to follow the logic of a *Time* magazine article when it says, “In the war on terrorism, the personal dignity of a fanatic trained for mass murder may be an inevitable casualty.”

And yet we are queasy enough about even this “inevitable casualty” that we do not want to call torture torture. We do not want to expose our policies, or our prisons, or our prisoners, to public view. We deny that we are torturing, or we deny that our prisoners are really prisoners, or when pushed to the wall we remind one another of how evil the enemy is. We give every evidence of the kind of self-deception so characteristic of the descent into sin.

It is past time for evangelical Christians to remind both government and society of perennial moral values that also just happen to be international and domestic laws. We must shake free *now*, without any further delay, from our sluggish inattention to this issue, and from our overall tendency toward comfortable partnership with (Republican) American government. We must speak truth to power here. We say we care about moral values and that we vote on the basis of such values. Many of us say that we care deeply about human rights violations around the world. Now it is time to raise our voice about human rights violations directed and permitted by our own government.

This is a call to say a clear and unequivocal No to torture, ultimately on religious grounds, but not on the basis of any kind of idealistic withdrawal from realistic engagement with the world. It is time that we raise our voices and make ourselves heard in our churches, in Congress, in the judiciary, in the executive branch, in the military, and in public opinion.

Christians have dual loyalties that do not always easily cohere. We are loyal to our nation but also, and always more fundamentally, loyal to Jesus Christ. Sometimes these loyalties conflict. In this case, though, rightly understood, they do not.

We serve a tortured, crucified Savior. In the politics of a long ago Empire, reasons of state appeared to require his torture and death. “It is better for you that one man die for the people than that the whole nation perish” (Jn. 11:50).

I have sought to show that a proper understanding of our national well-being requires the rejection of torture. Now I want to close by saying that for Christians a proper understanding of our ultimate loyalty—to Jesus the tortured one—makes any support of torture unthinkable.