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# The Strategic Costs of Torture

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How “Enhanced Interrogation” Hurt America

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**I**t has been more than seven years since U.S. President Barack Obama issued Executive Order 13491, banning the U.S. government’s use of torture. Obama’s directive was a powerful rebuke to the Bush administration, which had, in the years after the 9/11 attacks, authorized the CIA and the U.S. military to use “enhanced interrogation techniques” in questioning suspected terrorists. Some detainees were shackled in painful positions, locked in boxes the size of coffins, kept awake for over 100 hours at a time, and forced to inhale water in a process known as waterboarding. Interrogators sometimes went far beyond what Washington had authorized, sodomizing detainees with blunt objects, threatening to sexually abuse their family members, and, on at least one occasion, freezing a suspect to death by chaining him to an ice-cold floor overnight.

By the time Obama came to office, the CIA had apparently abandoned the most coercive forms of torture. Obama sought to ensure that the United States had truly turned the page. Today, however, many Americans are considering electing a president who wants to bring such abuses back. During a February debate among the Republican presidential candidates, Donald Trump vowed to reinstate torture, including treatment that would be “a hell of a lot worse than waterboarding.” Asked in a subsequent talk show if he stood by his proposal, Trump replied, “It wouldn’t bother

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me even a little bit.” And this is hardly a fringe view: according to a 2014 *Washington Post*–ABC News poll, a majority of Americans now think that the CIA’s use of torture was justified.

In 2014, the U.S. Senate Select Committee on Intelligence released a series of reports as part of a five-year investigation into the CIA’s detention and interrogation program. The committee’s Democratic majority, joined by the Republican senator Susan Collins, argued that the use of torture had not produced unique intelligence. The Republican minority claimed that it had. Meanwhile, several former senior CIA officials launched a website, CIA Saved Lives, on which they declared that the agency’s interrogation program had disrupted terrorist plots and helped the United States find and capture al Qaeda leaders.

Despite their disagreements, all these perspectives share one key assumption: that whether the torture was good or bad depends on whether or not it “worked”—that is, whether it produced lifesaving results. Leaving aside the very real human and legal consequences of torture, a truly comprehensive assessment would also explore the policy’s broader implications, including how it shaped the trajectory of the so-called war on terror, altered the relationship between the United States and its allies, and affected Washington’s pursuit of other key goals, such as the promotion of democracy and human rights abroad. To assess the overall effect of torture on U.S. national security, one should consider not only its supposed tactical benefits but also its strategic impact.

Our team of researchers at the Carr Center for Human Rights Policy at the Harvard Kennedy School has begun the first such review, and we’ve found that Washington’s use of torture greatly damaged national security. It incited extremism in the Middle East, hindered cooperation with U.S. allies, exposed American officials to legal repercussions, undermined U.S. diplomacy, and offered a convenient justification for other governments to commit human rights abuses. The takeaway is clear: reinstating torture would be a costly mistake.

### **“THE GREATEST RECRUITING TOOL”**

In 2004, reports surfaced that U.S. soldiers had tortured and humiliated prisoners at Abu Ghraib, a prison 20 miles west of Baghdad that held as many as 3,800 detainees. Our preliminary analysis has found that these revelations, alongside allegations of torture at the U.S. detention center in Guantánamo Bay, Cuba, spurred foreign extremists to join insurgents in Afghanistan and Iraq, contributing to the violence in both places.



*The human toll: at Guantánamo Bay, January 2002*

According to State Department cables made public by WikiLeaks, in the spring of 2006, a group of senior U.S. officials gathered in Kuwait to discuss how to stem the flow of foreign fighters into Iraq. Their conclusion was startling: that the mistreatment of detainees at Abu Ghraib and Guantánamo Bay was “the single most important motivating factor” in persuading foreign jihadists to join the war. U.S. Senator John McCain reached a similar conclusion in 2008, when he asked a captured senior al Qaeda leader what had allowed the group to establish a foothold in Iraq. “Two things,” the prisoner replied, according to a State Department cable. “The chaos after the success of the initial invasion, and the greatest recruiting tool: Abu Ghraib.” Of course, the claims of a captured terrorist are easy to discount. But in 2009, a Saudi official echoed this sentiment, when, according to another cable, he concurred with the Obama administration’s decision not to release any more photos of Abu Ghraib, alleging that when the scandal first broke, Saudi authorities arrested 250 people attempting to leave the country to join extremist groups. And Robert Pape, a political scientist at the University of Chicago, has lent further credence to this assertion by identifying 26 martyrdom videos in which the suicide bombers cite torture at Abu Ghraib as the motivation for their attacks.

Even though the total number of foreign fighters in Iraq remained relatively low throughout the war—less than ten percent of all insur-

gents were foreigners, based on a 2007 estimate by the director of the U.S. Defense Intelligence Agency—their brutality gave them disproportionate influence on the character of the conflict. According to U.S. and Iraqi officials, foreign fighters conducted more than 90 percent of the suicide bombings in Iraq between 2003 and 2005, killing thousands.

The revelations about mistreatment at Abu Ghraib and Guantánamo Bay made it easier for Sunni jihadists in Iraq to paint the United States as a villain. Images of Americans torturing prisoners became a motif in their propaganda, used to justify the targeting, kidnapping, and behead-

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ing of Shiites, Kurds, and anyone else suspected of cooperating with the United States and its allies. When, in 2004, Abu Musab al-Zarqawi, then the leader of al Qaeda in Iraq, beheaded an American contractor named Nicholas Berg—the first beheading of the conflict—his group claimed that it had acted in retaliation

for the abuses at Abu Ghraib. Even today, U.S. torture plays an important role in the propaganda of the descendant of al Qaeda in Iraq, the self-proclaimed Islamic State (also known as ISIS). ISIS fighters regularly force prisoners to wear orange jumpsuits similar to the ones the detainees wear at Guantánamo Bay, and they have reportedly waterboarded captives. Of course, jihadists in Iraq likely would have adopted cruel tactics even if the United States had not tortured prisoners. Yet the United States nevertheless helped legitimize such tactics by allowing terrorists to cast them as justified forms of vengeance. In lowering the bar for acceptable behavior, the United States signaled that in the war on terrorism, standards of humane treatment did not bind either side.

The torture revelations also made it harder for the United States' to recruit potential Iraqi allies. Part of the U.S. Army's strategy in Iraq included persuading locals that they would be better off siding with U.S. soldiers than with insurgents. After the photographs of detainee abuse at Abu Ghraib emerged, however, many Iraqis no longer saw the United States as trustworthy, and they rejected requests for help. As General Stanley McChrystal, the former head of the U.S. Joint Special Operations Command, acknowledged in a 2013 interview with this magazine, "The thing that hurt us more than anything else in the war in Iraq was Abu Ghraib." He continued: "The Iraqi people . . . felt it was proof positive that the Americans were doing exactly what Saddam Hussein had



done—that it was proof [that] everything they thought bad about the Americans was true.” Without much cooperation from local populations, coalition forces found it difficult to develop the kind of intelligence sources necessary to identify and target insurgents.

## **A PARIAH STATE**

At the same time that the United States’ use of torture was inspiring extremists in the Middle East, it was also undermining counterterrorism cooperation between Washington and its allies. Consider the case of the Netherlands. According to U.S. State Department cables from 2003, the Dutch army’s leadership wanted to contribute troops to the U.S.-led effort in Afghanistan. But intense public opposition to torture led Dutch political leaders to fear they would face domestic backlash if their army helped apprehend al Qaeda or Taliban members who then ended up at Guantánamo Bay. These concerns helped delay parliamentary approval for the deployment of Dutch troops until early 2006. Speaking before the Dutch legislature in November 2005, Foreign Minister Bernard Bot warned that if Washington was not forthcoming about its torture policies, the Dutch might not deploy troops to Afghanistan. It was only after the United States provided additional assurances concerning the treatment of Afghan prisoners that the Dutch parliament voted to deploy troops.

Similar concerns impeded cooperation among the coalition forces. In 2005, a U.S. military attorney told one of us (Alberto Mora, then general counsel to the U.S. Navy) that the British army had captured an enemy combatant in Basra, Iraq, but released him because it did not have adequate detention facilities and did not trust U.S. or Iraqi forces to treat him humanely (aiding and abetting torture is a crime under British law). Later, in 2005, Australian, British, Canadian, and New Zealand military lawyers approached Mora at a military conference sponsored by U.S. Pacific Command in Singapore and advised him that their countries’ cooperation with the United States “across the range of military, intelligence, and law enforcement activities in the war on terror would continue to decline” so long as Washington persisted in using torture.

The problems went far beyond Afghanistan and Iraq. The Finnish parliament delayed ratifying a U.S.-EU treaty on extradition and legal cooperation from late 2005 until 2007 over concerns that the United States’ use of torture and extraordinary rendition—the government-sponsored practice of abducting and transporting terrorist suspects from

one country to another for detention and interrogation without judicial oversight—might violate Section 7 of Finland’s constitution, which prohibits torture and specifies that the “deprivation of liberty may be imposed only by a court of law.” In 2008, British authorities, fearing that the United States was transporting suspects to secret prisons through British airports, began requiring the U.S. embassy in London to request permission before landing military planes in the United Kingdom.

Around the same time, the United States’ use of torture endangered its access to Shannon Airport, in Ireland, a vital stop for transatlantic military flights. “For segments of the Irish public,” a WikiLeaks cable reads, “the visibility of U.S. troops at Shannon . . . made the

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airport a symbol of Irish complicity in perceived U.S. wrongdoing in the Gulf/Middle East.” These concerns led the Irish government to impose new “cumbersome notification requirements” on U.S. military aircraft to prevent torture victims from crossing Irish territory, prohibit the United States from

shipping munitions to Israel through Shannon during the 2006 Israeli conflict with Lebanon, and bar U.S. deportations through Shannon, lest there be any confusion over the prisoners’ legal status.

The United States’ treatment of detainees also antagonized foreign courts. Overriding the opposition of their countries’ leaders, who did not want to undermine intelligence cooperation with the United States, judges in Canada and the United Kingdom ordered their governments to release classified information relating to the interrogation of their countries’ citizens in U.S. custody. In 2010, the British government reportedly paid a large (and classified) settlement to several victims of extraordinary rendition rather than risk airing details of British complicity in U.S. torture in court proceedings.

Meanwhile, the Spanish Supreme Court annulled a six-year prison sentence of a convicted terrorist, Hamed Abderrahaman Ahmed, because some of the evidence presented by Spanish prosecutors in the case had been obtained while Ahmed was at Guantánamo. That information was inadmissible, the court ruled, because it had been attained under circumstances “impossible to explain, much less justify.” And in 2010, in a demonstration of how the use of torture jeopardizes the prosecution of defendants, Ahmed Khalfan Ghailani was acquitted of 284 out of 285

charges of conspiracy and murder in the 1998 terrorist bombings of the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, after a U.S. federal judge barred prosecutors from using a key witness whom the government had learned of during Ghailani's interrogations while in CIA custody—interrogations that Ghailani's lawyers argued constituted torture.

## **HOW TO LOSE FRIENDS AND ALIENATE PEOPLE**

Worldwide, the scandals involving Abu Ghraib, CIA secret prisons, and Guantánamo Bay also soured attitudes toward the United States more generally, compounding the damage done by the 2003 invasion of Iraq. A 2006 Pew poll found that even after controlling for respondents' views of the Iraq war, people in Jordan, Pakistan, Spain, and the United Kingdom—all U.S. allies in the war on terrorism—reported less favorable views of the United States if they were aware of U.S. abuses at Abu Ghraib, Guantánamo, and elsewhere.

Governments that assisted the CIA's detention and interrogation program paid a legal price. Shortly after the human rights violations at Abu Ghraib became public knowledge, Canadian and European officials launched investigations into the complicity of their governments in the torture of U.S. detainees. These included public inquiries launched in Canada, Germany, Italy, Spain, and the United Kingdom, as well as by the European Parliament and the Council of Europe. At the European Court of Human Rights, torture victims brought cases against Italy, Lithuania, Macedonia, Poland, and Romania, charging that by hosting CIA secret prisons, the governments of those countries had violated Article 3 of the European Convention on Human Rights, which prohibits torture. In 2012, the court ruled against Macedonia, ordering it to pay 60,000 euros in damages to Khalid el-Masri, a German and Lebanese citizen whom the Macedonian police had abducted and handed over to the CIA; two years later, it ruled against Poland, which had to pay the suspected terrorists Abu Zubaydah and Abd al-Rahim al-Nashiri, who had been held at CIA "black sites" in Poland, 130,000 and 10,000 euros, respectively. And in 2016, the court ruled against Italy, making it pay 115,000 euros to the Egyptian cleric Hassan Mustafa Osama Nasr (also known as Abu Omar) and his wife, Nabila Ghali. The cases against Lithuania and Romania are still pending, but the rulings so far have sent a clear message to U.S. allies: complicity carries consequences.

By the end of the Bush administration, Washington's international credibility had fallen so low that even its closest allies appeared to distrust

the United States. According to leaked cables, for example, in a 2004 meeting with U.S. Republican Senators McCain and Lindsey Graham, Irish Prime Minister Bertie Ahern voiced his fear that the United States was transporting prisoners through Ireland, even though U.S. officials

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had said they weren't. He told McCain and Graham that he did not want to appear foolish after defending the U.S. military's use of Ireland as a transit hub to his parliament on the basis of "U.S. assurances that enemy combatants have not transited Shannon [Airport] en route to Guantánamo or elsewhere." "Am I all

right on this?" he asked them. McCain pledged to relay Ahern's concerns to the Bush administration and to underscore "how very important it is that the U.S. not ever be caught in a lie to a close friend and ally." (Although there is no evidence that detainees were onboard flights traveling through Shannon, several flights that stopped there did later pick up detainees and transport them elsewhere.)

It was only a matter of time before the United States itself became the target of foreign legal proceedings. In 2005, Swiss prosecutors opened a criminal investigation into the United States' use of Swiss airspace for extraordinary renditions. Between 2004 and 2009, the Center for Constitutional Rights and the European Center for Constitutional and Human Rights filed cases in France, Germany, and Spain against Donald Rumsfeld, who was U.S. secretary of defense until the end of 2006, and other senior U.S. officials for war crimes committed at Abu Ghraib and Guantánamo Bay. Cases were also filed against Rumsfeld in Argentina in 2005 and in Sweden in 2007. Just this year, a French court summoned Geoffrey Miller, the U.S. general who ran the Guantánamo Bay detention facility, for questioning as part of an investigation into his role in the torture of three French citizens. (Miller did not show up.)

Although not every case has led to formal charges, a few have. In 2005, Italy launched an investigation into the CIA's kidnapping and extradition of a Muslim cleric in Milan in 2003. The subsequent criminal proceedings led to the conviction of 23 U.S. officials in absentia. Even though the United States continues to refuse Italy's extradition requests, the case has restricted the movement of the implicated officials. In 2013, at the request of Italian authorities, police in Panama briefly detained one of them, the former CIA station chief in Milan, Robert Seldon Lady.



In April, authorities in Portugal arrested another former CIA official charged in the case, Sabrina De Sousa, and are in the process of extraditing her to Italy. Similar legal risks continue to limit the mobility of several former high-ranking U.S. officials, including former President George W. Bush, former Vice President Dick Cheney, Rumsfeld, and John Yoo, a key legal adviser to the Bush administration. Once in command of the world's most powerful country, today they cannot travel to states that assert universal jurisdiction for acts of torture, such as France, Germany, Spain, and Switzerland, without risking detention and prosecution. Likely due to such concerns, Rumsfeld cut short a trip to France in 2007 and Bush canceled a trip to Switzerland in 2011. Adding insult to injury, Russia has repeatedly imposed travel restrictions on former Bush administration officials for their participation in "medieval torture."

### **LEADING BY EXAMPLE**

U.S. foreign policy has long supported the advancement of international law and human rights, since doing so promotes peace, security, and the rule of law overseas; encourages the spread of democracy; and shores up popular support for American values. The use of torture demonstrably undermined these objectives, making the United States both less influential and less secure.

Even before news of U.S. abuses first broke, other governments began citing U.S. practices to justify their own human rights abuses in the war on terrorism. As early as January 2002, according to cables released on the WikiLeaks website, the State Department received intelligence that Russia was "carefully studying U.S. treatment of detainees in search of useful precedents to justify its treatment of Chechnya prisoners." In 2003, Colombian President Álvaro Uribe adopted the U.S. concept of "illegal combatants" to suggest that certain Colombian rebels were ineligible for protection under international law.

U.S. torture of detainees did more than merely provide other governments with a convenient way to justify their own bad behavior: it also presented countries with a specific set of practices to emulate. Our research shows that of the 54 governments that assisted the CIA in kidnapping, extraditing, and torturing suspected terrorists, many began to adopt similar policies at home, subjecting their citizens to worsening human rights abuses. In 2008, Human Rights Watch reported that Ethiopia and Kenya had adopted a policy of extraordinary rendition for Somali militants. And following the Abu Ghraib revelations, several

Egyptian human rights groups found that Egyptian police had adopted tactics of sexual humiliation similar to those the United States had used.

Gambia provides another case in point. In 2002, the Gambian government helped U.S. officials extraordinarily render two suspected terrorists, Bisher al-Rawi and Jamil el-Banna, to a secret CIA prison in Afghanistan. Four years later, in the aftermath of an alleged coup attempt, the Gambian government arrested at least 28 people, detaining them in secret prisons and subjecting some to torture. In July 2006, according to leaked State Department cables, Linda Thomas-Greenfield, then the U.S. deputy assistant secretary for African affairs, met with Belinda Bidwell, Speaker of the Gambian National Assembly, and raised objections to Gambia's human rights record. Bidwell responded that "the world is different since 9/11 and al Qaeda, and when it comes to matters of national security and the safety of the population, extraordinary measures must occasionally be taken." She then compared those detained in Gambia to the suspects held at Guantánamo Bay, pointing out, according to the cable, that "such things even happen in developed countries."

U.S. interrogation policies also provided an easy pretext for states to disregard multilateral institutions that safeguard human rights, such as the UN. Sudanese President Omar al-Bashir cited U.S. behavior in justifying his refusal to allow UN peacekeepers into Darfur in 2006: "We don't want another Abu Ghraib in Darfur; we don't want our country to go to Guantánamo," he said. According to European diplomats, the United States' refusal to grant UN special rapporteurs full access to Guantánamo "strengthened the hand" of other countries that sought to deny them access as well.

U.S. policies have also allowed chronic human rights abusers, such as China, Cuba, Iran, and North Korea, to dismiss Western condemnations as hypocritical. After the Senate released its torture reports in 2014, for example, China's state news agency, Xinhua, ran a story headlined "How long can the US pretend to be a human rights champion?" In 2006, when U.S. officials expressed concern over a lack of accountability for Hindu-Muslim riots in the Indian state of Gujarat four years prior, Narendra Modi, then the state's chief minister, fired back that the United States "was guilty of horrific human rights violations and thus had no moral basis to speak on such matters."

In December 2007, then U.S. Republican Senator Arlen Specter and then Democratic Representative Patrick Kennedy visited Damascus to meet with Syria's president, Bashar al-Assad, and its foreign minister,

Walid Muallem. In both meetings, Kennedy raised concerns about the Syrian government's jailing of opposition figures. When Kennedy threatened to issue a public *démarche* protesting the regime's political detentions, Muallem responded by suggesting that he would pen one of his own criticizing the United States for its actions in Abu Ghraib and Guantánamo Bay. At a time when U.S. officials were actively courting Assad, who appeared to be more democratic and reform-minded than his father, the torture allegations damaged Washington's credibility and influence in the region. In China, India, and Syria, accusations of U.S. hypocrisy were not just cheap talk: they signaled the waning influence of U.S. diplomacy.

### **AN UNTENABLE DEFENSE**

In the years since the details of the CIA's rendition, detention, and interrogation program became public, the agency has vigorously defended its conduct. In its response to the Senate's torture reports, the CIA claimed that "information obtained from CIA interrogations produced unique intelligence that helped the [United States] disrupt plots, capture terrorists, better understand the enemy, prevent another mass casualty attack, and save lives." At the same time, however, the CIA took no position on the question of "whether intelligence obtained from detainees subjected to enhanced interrogation techniques could have been obtained through other means or from other individuals. . . . The answer to this question is, and will remain, unknowable."

By insisting on this uncertainty, the CIA has obscured the long-standing consensus among interrogation professionals that rapport-building methods are both more humane and more effective, even when dealing with hardened terrorists. This was the experience of former FBI Special Agent Ali Soufan, who successfully used such methods to interrogate the suspected terrorist Zubaydah in Thailand before Zubaydah entered CIA custody. These methods are also a chief recommendation of two multiyear studies by the Intelligence Science Board. This emphasis on uncertainty is also a distraction; it draws attention to the tactical efficacy of torture, rather than to its strategic consequences, and places the burden of proof on those who oppose torture, rather than on those who advocate breaking U.S. and international law.

And even if torture may have sometimes produced helpful intelligence, it also led U.S. policymakers astray. In November 2001, Pakistani authorities captured Ibn al-Shaykh al-Libi, a suspected leader of an

al Qaeda training camp, as he fled Afghanistan. U.S. officials moved him to Egypt, where, after local interrogators tortured him, he claimed that Iraq had trained al Qaeda members to use chemical and biological weapons. Although the CIA ultimately renounced Libi's testimony, the Bush administration cited it as evidence of the link between Saddam Hussein and al Qaeda in the months leading up to the U.S. invasion of Iraq. Trained interrogators often warn that false confessions waste time and resources. In this case, a false confession played a critical role in the disastrous decision to invade Iraq, a choice that cost the United States over \$3 trillion and thousands of American and Iraqi lives.

### **"LAZY, STUPID, AND PSEUDO-TOUGH"**

During crises, leaders often find themselves under incredible pressure to craft policies that will safeguard those they're tasked to protect. American officials have talked about how, in the terrifying months after 9/11, they greatly feared another attack and felt an enormous responsibility to prevent one from happening. Such fear can easily tempt politicians to put even the most odious options on the table—as it did in this case.

Yet it is precisely at such moments that leaders must exercise the greatest restraint. As policymakers decide whether or not to use torture, they should not simply consider whether it will yield helpful intelligence; they should also assess the likely consequences of the policy beyond the interrogation chamber. By all accounts, the Bush administration, the CIA, and the Department of Defense failed to think through the costs of abusing detainees and then refused to acknowledge those drawbacks once they began to become manifest.

How little we've learned since then. In June, after suicide bombers killed 41 people at an airport in Istanbul, Trump reiterated his support for the very methods that got the United States into so much trouble a decade ago. "You have to fight fire with fire," he said at a rally in Ohio, adding, of waterboarding, "I like it a lot. I don't think it's tough enough." Yet torture is not the answer. Far from being a weapon of strength, it has proved to be a strategic liability, a careless shortcut used by those too hasty to conduct a proper analysis and too shortsighted to anticipate its consequences. In the words of John Hutson, a retired U.S. Navy rear admiral, "Torture is the technique of choice of the lazy, stupid, and pseudo-tough." We can—we must—do better. 🌐