

Torture:
The Ethics of American Policy

Amy P. Lippe

The United States has traditionally been a shining city on a hill, a beacon of freedom and democracy, and to mistreat or to inflict cruel and inhumane treatments on people I think is just something that just harms us a great deal.

-- John McCain

"Life, Liberty, and the Pursuit of Happiness" are the first and most fundamental rights guaranteed to Americans by the Declaration of Independence. The Constitution and the Bill of Rights specify these rights, which, in a sense, mandate an ethical treatment of all persons, regardless of religion, race, or accused guilt in a crime. It is the job of the three branches of government, the executive, the legislative, and the judicial, to uphold these rights and exemplify them when representing the United States to the international community. Recently, however, the executive branch has failed to do this. The administration of George W. Bush has abandoned fundamental American values in its foreign policy, for reasons that are neither ethical nor justifiable, and, in behaving unethically, has also damaged its international relationships and the reputation of the United States as a democratic country.

The first unethical step the administration took was ignoring United Nations (UN) protocol to wage war in 2003. The UN Charter requires that a nation must get the approval of the UN Security Council before using force against another country, but the United States disregarded this provision and invaded Iraq without the agreement of the Security Council. After the war in Iraq had begun, Kofi Annan, the UN Secretary General, stated that “From our point of view and the UN Charter point of view, it [the US invasion of Iraq] was illegal” (Lynch 2004). Furthermore, it was not only illegal, but hypocritical. As a member of the UN and a superpower in the world, it is essential for the United States to act in accordance with UN laws to maintain world peace. Simply, it is wrong for any country, regardless of size, power, or excuses, to break international law.

Once in Iraq, the administration took extreme measures to find evidence that would justify the United States presence there. The administration sought to procure information about possible terrorist and insurgent activities by authorizing that certain military officials and Central Intelligence Agency (CIA) agents could use torture against detainees. A series of memos written to the White House by lawyers in the Department of Justice justified torture as a method of interrogation. Taking advantage of loopholes in the Geneva Conventions and the UN Convention Against Torture (CAT), the memos intentionally narrowed the definition of torture and did not include “administering electric shocks to their [detainees’] genitals...beating them, and sexually humiliating them” in practices that would constitute torture (Wendel 2005: 81).

Furthermore, the memos provided President Bush with justification for refusing to grant Prisoner of War (POW) status to persons in the custody of the United States military in Iraq in order to evade the provisions in the Geneva Conventions and CAT

against torture. The Geneva Conventions protect prisoners only if they are members of a signatory of the Conventions and CAT or of a legitimate political group (Elsea 10/2005: 7); the memos established that members of the Al-Qaeda terrorist organization were not privy to rights under these terms (Wendel 2005; Silliman 2005). Not only did this undermine international law and rules of war, it went against traditional United States practices, which have been to extend POW status to all of its detainees regardless of their affiliations (Elsea 10/2005: 8; Silliman 2005). Former president and Nobel Peace Prize winner Jimmy Carter pointed out in an interview that no other administration since the Geneva Conventions were signed, in 1949, had attempted to circumvent the provisions regarding human rights (Carter 2005). Also, it disregarded a provision of CAT that obligates states to “criminalize” acts of torture (Garcia 2005: 3). These laws show that torture is regarded by the international community as a criminal activity and thus suggest that the Bush administration used, or at least supported, criminal tactics in the war in Iraq.

President Bush has defended these tactics and the war on terror by saying they are necessary to protect American freedoms; however, there is nothing American about these policies. The practice of torture is contrary to United States law. The 5th, 8th, and 14th Amendments of the United States Constitution make it a right of citizens of the United States to have a fair trial before being punished for a crime, protect them from cruel or unusual punishment, and prohibit the State from depriving citizens of “life, liberty or property.” Scott Silliman, a law professor at Duke University, has pointed out,

Whether as a nation or simply as individuals, we have always prided ourselves on submitting to the rule of law because it is the right thing to do, regardless of the actions of others...if we adopt the notion that the use of torture in interrogation is

justified under circumstances of our construct—the notion set forth in the memoranda—we risk becoming much like those we claim to be our enemies.

(Silliman 2004)

Simply put, the practice of torture is un-American and not something with which Americans anywhere in the world should be involved. By doing so, the Bush administration is exporting a set of values that are contrary to those laid out in the Constitution. The result of these un-American values is anti-American sentiment.

In response to criticism and questioning about torture, the Bush administration has also argued that granting POW status to detainees “would interfere with efforts to interrogate them, which would in turn hamper its efforts to thwart further [terrorist] attacks” (Elsa 11/2005: 6-7). President Bush has also made remarks that the United States military is succeeding in bringing democracy to Iraq, which was previously under the dictatorship of Saddam Hussein before the US invasion in 2003. Yet in spite of any reasons the Bush administration may give to justify its behavior, it is impossible to ignore that its practice is hindering US military efforts in Iraq and discrediting the image of the United States abroad.

Contrary to President Bush’s hopes and claims, the war in Iraq has not lowered terrorist activity: the National Intelligence Council reported that Iraq is the new training ground for terrorists (Priest 2005: A01). Instead of protecting the United States and spreading democratic values, the inhumane tactics used by the US have fostered more intense anti-American sentiment. Insurgent attacks against US troops in Iraq have increased and “appear to be motivated by opposition to perceived US rule” (Katzman

2005: 28). Clearly, the Bush administration's antidemocratic methods are not bringing democracy to Iraq.

Another sign that the war is faltering is the lack of international support it has earned. As mentioned earlier, the Security Council did not approve the invasion, and since the beginning of the war, several allies of the United States have changed their position. For example, South Korea has long been an ally of the United States, but recently began to withdraw its troops from Iraq (Katzman 2005: 38). During her December 2005 trip to Europe, Condoleezza Rice, the Secretary of State under President Bush, was pounded with questions and concerns from European leaders about torture (Stevenson 2005), and several European countries, including France, have never sent troops to help in Iraq. The 9/11 Commission has also recognized the lack of international support for US policy:

The 9/11 Commission, apparently finding the international discord over the treatment and status of the detainees to be harmful to the U.S. effort to thwart terrorism, recommended the development of a common coalition approach toward the detention and humane treatment of captured terrorists. (Elsea, Nov 15: 3)

In other words, the US is losing the war on terror and potential allies to fight it; to progress without incurring further losses, the Bush team should embrace its democratic roots.

Finally, the Bush administration's actions have resulted in diminishing its reputation. Barbara Boxer, a United States senator from California, recently pointed out that right after 9/11 the United States had the support and sympathy of countries from Cuba to France, but as a result of the war in Iraq and the reports of US torture facilities,

the United States has since lost the respect of many of these countries (Boxer 2005). This assertion has been echoed by many other political figures; President Carter pointed out that the United States has historically been the world's champion of human rights but is now being condemned by international leaders and human rights groups (Carter 2005). There is a huge contradiction between the Constitution protecting human rights in the United States and the executive branch of the government approving the violation of those same rights, and this is clear to the international community, which has begun to doubt the integrity of the United States.

President Bush and Vice-President Cheney have asserted that in order to win the war on terror, the president must be "unconstrained" (Silliman 2005). This is possibly the least democratic goal of the administration. The United States was a result of the American colonists resisting the absolute sovereignty of the King of England; under United States law, the people, not the government, are sovereign. Furthermore, when writing the Constitution, James Madison and other participants of the Philadelphia Convention created the system of "checks and balances," which meant that each branch of government was equally powerful, and each had the right to check another if it attempted to assert too much power (Helm 2005). After leaving the president unchecked for four years, Congress has finally "checked" the executive branch. The Senate, recognizing the immorality of torture and need to prevent it, just passed an amendment that would close the loopholes in the law through which the Bush administration was able to justify torture. Written by Senator John McCain, the amendment clearly defines torture and sets guidelines, for both military personnel and C.I.A. agents working outside of the United States, that echo American and international law in condemning cruel and unusual

punishment. These actions will not completely repair the Bush team's damage outside of the United States, but they are first steps in showing the world that Americans still stand for justice and integrity.

Works Cited

Interview with Senator John McCain. *The Brian Lehrer Show*. WNYC, New York. 7 Nov 2005.

Interview with Scott Silliman. *The Brian Lehrer Show*. WNYC, New York. 17 Nov 2005.

Interview with Senator Barbara Boxer. *The Leonard Lopate Show*. WNYC, New York. 9 Dec 2005.

Interview with Jimmy Carter. *Hardball with Chris Matthews*. MSNBC. 3 Nov 2005.
(Transcript: <http://msnbc.msn.com/id/9903864/>)

Helm, Ruth. Professor of American Studies, University of Colorado. Lecture Notes, Sept – Dec 2005.

Elsea, Jennifer K. "Lawfulness of Interrogation Techniques under the Geneva Conventions." Congressional Research Service, The Library of Congress. 27 Oct. 2005: 30.

———. "Treatment of 'Battlefield Detainees' in the War on Terrorism." Congressional Research Service, The Library of Congress. 15 Nov 2005: 56.

Katzman, Kenneth. "Iraq: U.S. Regime Change Efforts and Post-Saddam Governance." Congressional Research Service, The Library of Congress. 21 Nov 2005: 44.

Lynch, Colum. "U.S., Allies Dispute Annan on Iraq War." *The Washington Post*,

17 Sept 2004 page A18

Priest, Diana. "Iraq New Terror Breeding Ground: War Created Haven, CIA Advisers Report." *The Washington Post* 14 Jan 2005: A01.

Stevenson, Robert and Joel Brinkely. "More Questions as Rice Asserts Detainee Policy." *The New York Times* 8 Dec 2005.

Silliman, Scott. "Troubling Questions in Interrogating Terrorists." *Duke Magazine* Vol. 90, Number 5 (Sept-Oct 2004). Online Edition:
<http://www.dukemagazine.duke.edu/dukemag/issues/091004/depGAR.html>

Wendel, W. Bradley. "Legal Ethics and the Separation of Law and Morals" *Cornell Law Review* Vol. 91 Number 1 (Nov 2005): 67-128.

Works Consulted

Mayer, J. "A Deadly Interrogation." *The New Yorker* November 14, 2005, 44-51.

Wood, Lee. "Overview and Analysis of Senate Amendment Concerning Interrogation of Detainees." Congressional Research Service, The Library of Congress. 2 Nov. 2005: 5.

[Contents](#)

[Occasions Home](#)

[PWR Home](#)