

If Obama Cedes Ground on Torture to Cheney, We'll All Pay a Heavy Price

By acknowledging recent crimes while refusing to pursue the criminals, the president has made his position untenable

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"Every government assumes deeds and misdeeds of the past," writes Hannah Arendt in [Eichmann and the Holocaust](#). "It means hardly more, generally speaking, than that every generation, by virtue of being born into a historical continuum, is burdened by the sins of the fathers as it is blessed with the deeds of the ancestors."

For Barack Obama this cuts both ways. Talented as he is, he looks much more so when compared with the man who preceded him. Just by showing up and stringing a few coherent sentences together, he embodies an improvement. To earn acclaim in these early months, he hasn't had to do anything good. He merely had to announce that he would stop doing things that were bad.

On the other hand, he has inherited the scarred landscape of his predecessor's tenure. Bush's wars, banks, car companies, secret prisons and untried prisoners are now his. As the candidate he may have promised change, but as the president he must also simulate some sense of continuity. Soaring rhetoric, however hopeful about the future, cannot erase the past, which has a habit of remaining with us.

Herein lies the tension in Obama's deeply flawed attempts to come to terms with America's recent disgraceful record of torture and detainment. As a candidate he was consistent on two points. First, he was opposed to torture and would close Guantánamo Bay. "I believe that we must reject torture without equivocation because it does not make us safe, it results in unreliable intelligence, it puts our troops at risk, and it contradicts core American values." Second, he had no desire to prosecute those who have been guilty of human rights abuses. "I would not want my first term consumed by what was perceived on the part of the Republicans as a partisan witch-hunt, because I think we've got too many problems to solve."

In short, by acknowledging the crimes while refusing to pursue the criminals he has promised to rectify America's grim recent history without ever reckoning with it.

Events over the past few weeks have shown just how ethically and politically untenable this situation really is. His first term looks as though it may be consumed by these issues anyway – and not on his terms. Having released the torture memos, Obama then reversed his position on releasing photographs that accompanied them on the grounds that to do so would endanger US troops. Having opposed trying Guantánamo prisoners under military commissions, he now supports it. His decision to close Guantánamo has been delivered a

huge blow by the Senate, which voted 90-6 to deny the funds necessary to do so. Now he has proposed that suspects who cannot be tried in a federal court because evidence against them was obtained under torture could be held in “prolonged detention” in the US without trial.

In essence, he would transfer the legal architecture of Guantánamo to the mainland, as though the problem were one of geography rather than principle. So much for core American values.

On one level we should not be surprised. Obama was elected by Americans to represent American interests – which, in turn, are informed by American political realities. And the reality is that, with a few notable exceptions, the Democrats have consistently failed to provide an unswerving, principled opposition to torture whenever they have had the power to do so, for fear of being branded unpatriotic. Like their spinelessness over the Iraq war, this complicity in the name of pragmatism ultimately makes them more vulnerable to political attack, rather than less.

The speaker of the US House of Representatives, [Nancy Pelosi](#), knows this only too well. When asked why she took impeachment off the table before the 2006 elections, she said: “What about these other people who voted for that war with no evidence ... Are they going to be voting with us to impeach the president? Where are these Democrats going to be? Are they going to be voting for us to impeach a president who took us to war on information that they had also?”

This makes the recent fiasco over her confused accounts of whether and when the CIA misled her on waterboarding seem all the more disingenuous. Allegations of torture from various sources were prevalent by that stage, and she chose not to believe them. Her silence made her complicit, leaving her territory on the moral high ground foreclosed.

This should leave us in no doubt as to where the ultimate responsibility lies. “Where all are guilty, no one is,” wrote Arendt. “Confessions of collective guilt are the best possible safeguard against the discovery of culprits, and the very magnitude of the crime the best excuse for doing nothing.”

This is precisely how those who have now left the Bush administration have played it. “The president instructed us that nothing we would do would be outside of our legal obligations under the convention against torture,” Condoleezza Rice said recently. “So by definition, if it was authorised by the president, it did not violate our obligations under the convention against torture.”

But in the absence of moral leadership the national conversation has morphed seamlessly from human rights to national security, where the issue of torture and detention is debated not on the grounds of morality but efficacy.

With the former vice-president Dick Cheney leading the charge, the right has managed to mount a spirited defence of torture in which America’s rights as the potential, abstract victim of terrorism supersede detainees’ rights as actual victims of torture.

In the heady days following 9/11, argues Cheney, observing constitutional niceties and international conventions was a luxury they could not afford. Waterboarding, he said just last week, “prevented the violent deaths of thousands, if not hundreds of thousands, of

innocent people". Cheney insists that by closing Guantánamo and putting a halt to torture Obama is making the country less safe.

These arguments are not difficult to counter. There is not one shred of evidence any intelligence obtained as a result of torture has been used to prevent further attacks. The best intelligence the Bush administration ever had was a month before 9/11, when it received a memo entitled "[Bin Laden determined to attack inside the US](#)" from the FBI, warning of "patterns of suspicious activity in this country consistent with preparations for hijackings". No torture was involved; no action was taken.

Conventions are devised precisely to set boundaries in moments of crisis – in periods of relative harmony there is not much need to refer to them. The Geneva convention, in particular, was devised to establish the rules of engagement during times of war. If the very fact of being at war is reason enough to discard it, then it has no meaning.

And finally, if showing the world what America has done would inflame anti-American sentiment then maybe America shouldn't do it in the first place.

The Obama administration's desire to concentrate on the future is understandable. But the past has a legacy and the present has consequences. By ceding the principle to Cheney now we will all pay for it later.

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