

The Rights of Prisoners and International Law

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"In fact, a secret statement of the President's views, which he signed on February 7, 2002, had a loophole that applied worldwide. "...determine that none of the provisions of Geneva apply to our conflict with Al Qaeda in Afghanistan or elsewhere throughout the world," the President asserted. He also stated that he had "the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to exercise that authority at this time." In other words, detainees had no inherent protections under the Geneva Conventions – the condition of their imprisonment, good, bad, or otherwise, was solely at his discretion." ¹ Seymour Hersh

I. Introduction

Let us imagine for just a moment the following: that hundreds of American citizens are picked up from around the world by a foreign government (a powerful one like China, for example). Those Americans, including small children, are strapped, shackled, blindfolded, and have their heads covered with black hoods. They are put into big metal containers, which are loaded onto Chinese transport planes. The American captives are forced to urinate and defecate while strapped and shackled in those containers. They cannot move. Many pass out due to heat and lack of air. In fact, many die in those containers while being transported – just as Jews died in the hundreds while being transported in cattle trucks and train cars to the concentration camps. Finally the American prisoners – terrorists the Chinese are calling them – reach the military base on one of the many scenic islands off the coast of China. The guards shove them into tiny, nine by four foot cages, which are outside and open to the elements. Other cells are underground where no daylight comes. Once in this camp, these American terrorists are taken out every day to different rooms to be interrogated. In the process of interrogation they are tortured. These prisoners have no rights. They are held incommunicado. They have no access to lawyers, family members or courts. Soap and toothpaste are also denied. After some time their cell building reeks of the smell of unwashed human beings. Torture is a daily occurrence. Sometimes the guards strip the men and women and keep them naked, while making fun of their bodies, and particularly sexual organs. Some guards force the men to perform masturbation or have oral sex with one another, for sheer entertainment purposes. The American women are forced to walk naked in front of the men prisoners and the guards. At night, Chinese soldiers come in and throw the naked women and girls on the ground and rape them over and over, beating those that give any resistance. In the US this may or may not be a big deal, as per the

morality of American culture. In other countries, however, such as the Middle East, Pakistan, such women are damned for life. They will try to commit suicide. If they don't succeed, upon their release their brothers, husbands or fathers will execute them for bringing shame on the family. On other days, the guards bring in dogs – large, vicious German Shepherds trained to attack, bite and kill. Sometimes the guards make the naked American men lie on the floor, then tie a leash around their neck and pull them around like dogs.

Now it may happen that some of the Chinese people learn about these goings-on and protest this unjust treatment of American prisoners, saying it is against international law. In response, the Chinese arrest the protestors, declare them as aiding and abetting terrorists, and throw them in prison, keeping them indefinitely without charges and without habeas corpus. Suppose at the time of interrogation, the interrogators instruct the guards to chain the naked men, then shackle them lying face down on their stomachs to a ring fastened to the floor. Then the questions and beatings start. After several hours the interrogators leave the room and leave the naked prisoner shackled to the ring face down on the floor for a day or two days – leaving him to urinate and defecate and then lie in his own filth, without food, without water. Then, to shut up further protests from an alert populace, the government announces that special military commissions will be created to try the American prisoners. International law has no information about such military commissions, created by the president. However, the protests grow. In response, the government avoids setting up the military commissions and instead simply continues to keep the American terrorists locked up for two, three, maybe four years inside their cages and cells.

Suppose the Chinese government declares that all these American terrorists are not covered by international law. Instead, the president makes up new vocabulary for these dreaded terrorists. The Chinese refer to them as “enemy combatants,” “detainees,” “School of the Americas” and “Sons of Liberty” – a political party that presently has control of the US. Of course, the Chinese government declares the Sons of Liberty illegal, illegitimate; consequently, they do not have the protection of international law. And for members of the School of the Americas, they are all terrorists, and terrorists do not come under the realm of existing international law. In this given scenario, **how would we feel?**

The United States has done all these things and more. They have committed [all these atrocities2](#) in our name – in the name of the people of the United States. How can it be? Did we ever agree to permit such tortures on other human beings? Did we ever agree that our government should break nearly every convention and treaty that comprises international law? Did we not rely on our senators and congressmen and women to make the right decisions and vote in the interest of law and justice for all when casting their votes? Does this mean that we cannot rely on our elected representatives to do the right thing?

It has become essential to document, in simple, clear language, the shameless conduct of the United States government with regard to the rights of prisoners held by the US military, in collusion with the CIA, FBI and private contractors since September 11, 2001. The crimes of the US government must be examined in light of international laws governing civilians, civilian criminals, and prisoners of war (POWs) as stated in various legal documents such as the UN Charter, the Geneva Conventions, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Mention will also be made of US law, simply to point out that the Bush administration grossly violated and continues to trample on not only international law but also the United States Constitution.

The violation of international law since 9/11, the horrible abuse of prisoners, the stripping

and raping of women, [sodomizing of men, including young boys](#),⁴ the numerous torture tactics in use right now at Guantanamo, Abu Ghraib and Bagram as well as countries cooperating with the US government that serve [as "torture" sites](#)⁵ – all this reflects a complete breakdown of international law, since, according to Mr. Bush, he can do whatever he likes. He is not obligated to follow any laws because the US is in a state of Bush-declared perpetual war on terror, which provides him the justification to seize unlimited powers and become a virtual dictator of America and the world. What the axis of evil called Bush-Cheney-Rumsfeld has done, what crimes they have committed in Guantanamo, Abu Ghraib, Bagram and elsewhere, must be told to the American people. [The Military Order No. 16](#) passed by Bush directly after 9/11 gives him the right to 'disappear' even American citizens. This is unprecedented power. It is immoral and illegal, and it must be told to the American people, so that as one outraged body they denounce all Bush infractions of international law and compel the retraction of all new, illegal and unconstitutional laws passed by Bush since 9/11.

The torture of prisoners conducted by Bush-Cheney-Rumsfeld reflects abominable, callous indifference to fundamental human rights. This axis of evil continues today to illegally hold [hundreds of additional photos of Abu Ghraib](#)⁷ which, if handed over to the Center for Constitutional Rights (CCR) and thereafter the mainstream media, would set the whole world on fire. Knowing this full well, the threesome are illegally holding those photos, when by law they must turn them over to the CCR. Bush will go down in history as (1) the first illegal president – that too, illegally placed in office in [two consecutive, rigged elections](#); and (2) the cruelest, most vicious president in US history. His actions replicate the actions of the dreaded Pinochet and other third world dictators, including Saddam Hussein. He is the president under whom rendition got taken to new extremes. Rendition means, the outsourcing of torture. Just as today companies outsource x-ray diagnosis and manual production, so Mr. Bush and cohorts outsource torture to countries that specialize in the most inhuman methods to destroy a human being. In these horrifying times, when citizens have been [stripped of fundamental rights and freedoms](#) under the rule of the neocons, it becomes the duty of us all to expose these new 'laws' by which the axis of evil perpetrates unbounded torture and suffering upon tens of thousands of innocent civilians here and abroad.

Each one of us must ask each other the question: How is that that American men and women could treat the Iraqi prisoners like dogs – worse than dogs? What has happened to American culture, American way of life, that we could stoop so low, that we became so callous and cruel, that in front of the whole world we behaved like barbarians? No country in the world today looks up to America. By behaving worse than animals, we became the moral outcasts of the world. By torturing innocent men, women and children, by [stripping them, forcing women to walk naked in front of men](#),⁸ by [sodomizing young boys screaming in pain](#), the US became nothing in this world. We became the ultimate moral disgrace. How do we climb out of this moral morass that we fell into by blindly following George Bush? These sadistic tortures and horrific degradations of other human beings are taking place IN OUR NAME! Why does the US government hire private contractors to torture? Is torture for hire! [These companies](#) are making hefty profits by carrying out sadistic tortures for the US government.

The US government claims that what happened at Abu Ghraib was some temporary madness. But in fact, as the PBS Frontline documentary, "The Torture Question," aired on national television on October 18th, 2005, demonstrates, the orders came straight from the

top, from Defense Secretary Donald Rumsfeld. John Yoo, an extreme conservative belonging to the Federalist Society, [wrote new statutes](#) that gave Bush unprecedented legal powers, greater than any president in US history. Congress passed these new powers by a landslide, without so much as a question. The new memos of Gonzales, Yoo and Delahunty gave the administration the power to act unilaterally in defining the rules of war. As Dana Priest of the *Washington Post* said, 9/11 gave the Bush administration carte blanche to do whatever it wanted.

II. International Law Regarding Rights of Prisoners

“Our government is the potent, the omnipresent teacher, For good or ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself.” Justice Louis D. Brandeis – 1920

Today The executive branch of the US government is accumulating obscene amounts of power unto itself. In a time of war, says Bush, the Supreme Court has no right to review issues. But, the Supreme Court said, yes we do! More and more power is being abrogated to the executive. We should not be suspending our constitution. We should not be undermining international law in the name of democracy.

The [Third Geneva Convention](#) requires that any dispute about a prisoner’s status be decided on by a ‘competent tribunal.’ During the First Gulf War in 1991, American forces held many such tribunals. But today, Mr. Bush has refused to comply with the Geneva Conventions. He declared all Guantanamo inmates as “unlawful combatants.” He says they are not regular soldiers and hence are not eligible to protections normally guaranteed to prisoners of war (POWs). Rather, he says, they are terrorists. The term “enemy combatant” has no legal meaning. It does not exist in the law books. By using this term, he is creating his own personal laws, and disregarding the entire body of international law that evolved over the past two centuries. He is also disregarding the United States Constitution.

The Bush administration declared that the president, in his capacity as commander in chief, has determined that Guantanamo detainees are not entitled to prisoner-of-war status under the Geneva Conventions. With this statement, Bush violated the Geneva Conventions and then refused to let American courts consider the issue. Mr. Bush further decided that American citizens are not subject to the new [International Criminal Court](#), which has a mandate to punish genocide and war crimes.

Mr. Bush further declared that he can designate any American citizen as an “enemy combatant.” Based on this designation, he can detain that American in prison indefinitely, without charges, without trial, and without [habeas corpus](#).⁹ Mr. Bush’s lawyers said that Bush gets the last word, and will not submit to any checks and balances from courts, Congress or the world. Bush became the king of the world!

In his [2003 State of the Union address](#), Mr. Bush said that more than 3,000 suspected terrorists have been arrested. And “many others have met a different fate. Let’s put it this way. They are no longer a problem for the United States.” Does this mean that Mr. Bush gets to kill at will whoever he wants whenever he wants? Does some law – American or international – give him this kind of power?

Habeas Corpus has been a part of Anglo-American law for the past three centuries. Habeas

corpus is a request to the court to order a government official to bring the prisoner before the court in order to justify the lawfulness of his detention. Prior to the existence of habeas corpus, certain countries used to send their prisoners off to remote islands called penal colonies, which were beyond the reach of the law – just like Guantanamo. British Parliament three centuries ago banned this activity by adopting the law called Habeas Corpus. George Bush is abandoning a 300-year-old tradition and reviving the now ancient system of penal colonies, which means he is dragging us all back into the age of barbarism. Declaring the non-applicability of habeas corpus to Guantanamo prisoners is completely illegal. In Guantanamo, the authorities are subjecting prisoners to cruel, inhuman, and degrading treatment. It is against the Geneva Conventions and the [UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#). In the case filed by the Center for Constitutional Rights, the lower federal courts ruled that Guantanamo prisoners have no right to a writ of habeas corpus. The prisoners of Guantanamo, Iraq and Afghanistan and renditioned prisoners are entitled to be treated in accordance with the law – either criminal law or the Geneva Conventions which apply to prisoners of war.

The [Magna Carta](#) was signed in 1215, nearly 800 years ago. It gives every human being the right to some kind of judicial process before being thrown into prison. It says societies function based on laws and not the dictate of kings. Prior to the Magna Carta, issues were decided by executive fiat, i.e., the king decided on his own whim what would be done. The Magna Carta was signed in order to end the primitive rule of dictates of kings.¹⁰

There is no place on this earth that is law-free. It means, there is no land that is beyond the law. Whatever land a person walks on or is kept on, that person is entitled to the rights guaranteed at least in international law – the [Declaration of the Rights of Man](#), the [Universal Declaration of Human Rights](#), the Geneva Conventions, and the [International Covenant on Civil and Political Rights](#). Prisoners at Guantanamo must be treated in accordance with criminal law or with the Geneva Conventions. We cannot ignore both bodies of law. If we do, then we have become lawless – a lawless nation.

The Third Geneva Convention of 1949 is an international treaty created to protect prisoners of war from inhumane treatment at the hands of their captors. The Geneva Conventions comprise of four treaties created at the end of World War II, specifically to reduce human suffering caused by war. The four treaties cover the four categories of persons: (1) the military wounded and sick in land conflicts; (2) the military wounded, sick and shipwrecked in conflicts at sea; (3) military persons and civilians accompanying the military; and (4) civilian non-combatants.¹¹

The Geneva Conventions state that those captured in war are to be called prisoners of war (POWs). If there is any ambiguity as to status, then a ‘competent tribunal’ is to be set up to ascertain whether a person is a prisoner of war. If not, then he is to be tried as a civilian in a criminal civil court. The bottom line is, every human being picked up in a war is protected by the Geneva Conventions, which provide him certain inalienable rights, such as due process of law.

On January 25, 2002, then Counsel to the President Alberto R. Gonzales sent a memo to Mr. Bush recommending that the Geneva Conventions not be applied to the Taliban and al Qaeda. According to Center for Constitutional Rights Director Michael Ratner, this was the beginning of the end of the rules of law.¹² According to Douglas A. Johnson, Executive Director of the [Center for Victims of Torture](#) in Minneapolis, Minnesota, the memorandum has grievous errors, which are not only legal errors regarding prohibition of torture, but also

grave moral and political errors that will seriously jeopardize the reputation of our nation in the world. Johnson, in his testimony before the Judicial Hearing on the Nomination of Alberto Gonzales to become the Attorney General of the US,¹³ said that all the memos from Gonzales to Bush showed an utter disdain for human rights and democracy, and a complete lack of recognition of the physical and psychological damage of torture. Johnson continued by saying that more than half a million survivors of torture have taken refuge in the United States. Most of these refugees suffer from post-traumatic stress disorder (PTSD) and major depression (DSM IV). This is in addition to a host of other psychological symptoms that transcend cultural and national boundaries in their commonalities. The psychological trauma after torture generally continues until the end of life. Torture victims have far higher rates of depression and suicide than the general population. Even the children and grandchildren of torture victims have higher rates of mental depression and suicide. It means that the effects of torture are devastating and continue even into descendants of the victim.¹⁴ Since the circulation of Gonzales' memo, hundreds or thousands of 'detainees' have been tortured and undergone inhumane and degrading treatment at the hands of the US Army, the CIA, the FBI, foreign intelligence agents, as well as private mercenaries and contractors such as Blackwater, Inc. Examples of the kinds of torture meted out by these groups are reflected in the horrific, damning photos taken in Abu Ghraib – photos that were dirty, degrading and sexually humiliating. At present the Pentagon is refusing to turn over another 800 photos taken in Abu Ghraib, because the images in these [photos of rapes, sodomizing, etc.](#) will set the entire world on fire. Article 1.1 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment reads as follows:

“For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”¹⁵

According to Douglas Johnson, the correspondence between Gonzales and Bush reveal that they are not concerned with treatment of prisoners qualifying as “cruel, inhuman, or degrading treatment or punishment.” Both the Torture Convention and US law prohibit torture as well as inhuman and degrading treatment. Johnson said that the US is supposed to stand by Article 10 of the Covenant on Civil and Political Rights, which says: “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the person.”

The moral and political reasons that prohibit torture are as follows: Torture violates three principles embedded in the US Constitution. These principles are also supposedly embedded in American minds and are considered to be part of American values. They are:

1. “One is innocent until proven guilty.” It means that no one, no prisoner, should be tortured or harmed before proven guilty. As Johnson says, torture before guilt is “anathema to American values.”¹⁶

2. “Punishment must fit the crime, but should never descend to barbarity.”¹⁷ Therefore the Eighth Amendment to the US Constitution prohibits all forms of “cruel and unusual punishment.”¹⁸ The Fifth Amendment gives everyone the privilege

against self-incrimination. The Fourth Amendment prohibits unlawful searches and seizures.

3. The Fifth Amendment is the greatest protection against torture, because it protects the accused from self-incrimination.¹⁹ It protects the accused from self-incrimination. The purpose of this amendment was to put the onus of proving guilt on the state. As Johnson said in his appearance before the Judiciary Hearing, “freedom from torture was one of the key struggles of the 19th century Enlightenment.”²⁰

In his further testimony, Johnson explained to the committee that there are [eight lessons](#) his Center has learned regarding the use of torture in the world:

1. “Torture does not yield reliable information.” Torture in essence does not work. Torture only causes victims to confess to anything to stop the pain.

2. “Torture does not yield information quickly.” People are tortured a long time before they confess, before they agree to tell complete lies. It is unnecessary and morally repugnant.

3. “Torture will not be used only against the guilty.” According to the International Commission of the Red Cross, [70-90 percent of prisoners being held in Abu Ghraib are innocent!](#)²¹

4. “Torture has a corrupting effect on the perpetrator.” The perpetrators of torture find various ways to justify to themselves that their victims are sub-human, hence they – the torturers – are still good, moral citizens and family persons.

5. “Torture has never been confined to narrow conditions.” It is always used on hundreds or thousands of people. Hence it is a war crime of huge proportions.

6. “Psychological torture is [the most] damaging.” Victims invariably report that they recover from the physical torture but never recover from the psychological torture. The mental torture remains with them for life, in the form of nightmares, lack of self-esteem and mental depression. This parallels the victims of domestic violence – women who may or may not have suffered physical abuse at the hands of their husbands but who could never forget the psychological abuse and torture meted out to them. It remains with them for life.

7. “Stress and duress techniques are [also] forms of torture.” The Israeli Supreme Court has declared these techniques as illegitimate (although some sources indicate that stress and duress torture continues in Israeli prisons.)

8. “We cannot use torture and still retain the moral high ground.”²² If the US engages in torture of prisoners, then the US becomes on a parallel to other regimes known to use torture, such as Syria, Iran, Iraq, Libya, Morocco, Uzbekistan, Chile and other countries. Torture is used in third world countries primarily, not in first world countries where there is somewhat more transparency and accountability. Clearly, the US government is taking America back to the status of a brutish, barbaric, third world country.

(Note: Statements in quotations are taken verbatim from [Douglas Johnson’s testimony](#) at the Hearing on the nomination of Alberto Gonzales to be the Attorney General.)

For the past two decades, the US was regarded as a safe haven for torture victims. Today

those same victims feel fear at the new direction of the American government. They no longer feel safe. They read in the newspapers and on the Internet what the US is doing in Guantanamo, Abu Ghraib and Bagram. They may be reading also about sites of rendition, which may be their own countries of birth. Johnson mentions a recent human rights symposium in Ankara, Turkey, where a number of human rights defenders told him that their governments now tell them that they are only doing the same thing that the Americans are doing.[23](#)

Torture in theory and in reality should be a line that we never cross. It should be a line that no country crosses. But, in the case of the US, it is particularly damaging to cross that line and engage in torture for the simple reason that still today, in spite of our crimes, many countries 'look up' to us. Hence, the full scope of American law and international law must be used to denounce torture wherever it rears its ugly head. Perpetrators must be duly tried and prosecuted – including American perpetrators. Until today, this has not been done. Rather, torture has remained the policy in all three locations – Guantanamo, Iraq and Afghanistan, as well as in rendition countries.

The United States has signed numerous conventions and treaties that forbid torture. They include the UN Charter, the UN Universal Declaration of Human Rights, the [UN Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment](#), [UN Standard Minimum Rules for the Treatment of Prisoners](#), and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Universal Declaration of Human Rights states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." The Geneva Convention states: "Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction..." In addition to the above laws, the US War Crimes Act says that US forces will comply with (1) the [Annex to the Hague Convention Respecting the Laws and Customs of War on Land](#) and (2) the Geneva Convention Relative to the Treatment of Prisoners of War.[24](#)

American medical and health care personnel employed by the military have tossed out their Hippocratic oaths and instead chosen to [aid and abet the torture of human beings, even using their knowledge to increase the torture.](#) [25](#) Knowledge of medical doctors aiding and abetting torture is common in dictatorships such as Chile, Egypt, Turkey, Morocco, Libya and Argentina during the "disappearances." But today, it is the United States military medical personnel of all ranks who participate in the torture of prisoners in Iraq, Guantanamo, Afghanistan, and countries of rendition. The Bush regime has brought to an end the illusion that the United States is the leader of the world, unless it be the leader of war crimes. Furthermore, the Bush regime, through its heinous crimes, has once and for all shattered the myth of white supremacy. The Geneva Conventions states clearly: "Although [medical personnel] shall be subject to the internal discipline of the camp...such personnel may not be compelled to carry out any work other than that concerned with their medical...duties." It refers to "the duties of physicians, surgeons, dentists, nurses, and medical orderlies."[26](#) The [United Nations Principles of Medical Ethics Relevant to the Protection of Prisoners Against Torture](#) mentions "health personnel," 'particularly physicians,' but including also 'physicians' assistants,' 'paramedics,' 'physical therapists and nurse practitioners.' Hence it is clear that all medical personnel at all levels are to protect and safeguard the health of the prisoners.

As a direct result of the violation of this Article, numerous groups have sprung up

demanding the medical protection and care of prisoners, including [Physicians for Human Rights](#) and Amnesty International's Health Professionals Network.²⁷ However, it would be more fitting, more just, for the medical perpetrators and participants of torture of prisoners to be tried for these war crimes in the International Criminal Court in Rome. We must demand reforms that entail strict monitoring of violations along with global condemnation and prosecution of those countries perpetrating torture. Until this happens, citizens of governments that perpetrate torture on citizens of other countries today stand at far greater risk of themselves being tortured, as a form of vigilante justice, by those same countries, particularly when state leaders fail to unitedly condemn, punish, or at least ostracize war criminals posing as leaders of countries.

On October 17, [Britain's high court convened](#) to decide whether information gained by torture in other countries is permitted in domestic British law. This is an appeal against a majority decision by the Court of Appeal that entitled the British government to rely on torture evidence in special terrorism cases.²⁸ However, numerous Conventions and Treaties comprising international law ban the use of evidence gained through physical or psychological torture. Hence, Britain as represented by her court members is taking a deep step backwards in the arena of justice and human rights. For this very reason, Marie Woolf, Raymond Whitaker and Severin Carrell, in their article, ["Judges liken terror laws to Nazi Germany,"](#) published in *The Independent (UK)* on October 16, 2005,²⁹ tell us that a powerful group of British judges, lawyers and senior politicians in Britain have warned the public that the present British government is undermining fundamental freedoms that British citizens have enjoyed and taken for granted for centuries, that furthermore Britain is presently moving towards a police state, and that the present suppressive political trends in UK are eerily similar to the steps Adolf Hitler took to create his own police state in the 1930s and 1940s.³⁰ Former law lord Lord Ackner deplored the meddling of politicians into the judiciary, saying that inalienable rights will disappear swiftly unless there is a check on Tony Blair, who never ceases to attack the judiciary and the freedoms enshrined in the [British Human Rights Act](#).³¹ All of this stripping of civil liberties is done in the name of stamping out terrorism, catching terrorists, imprisoning new enemy combatants. Human rights lawyer Lord Lester also decried the UK government's flouting of human rights law and meddling with the courts. He said that if it continues, then Parliament will have to start the process of creating a written constitution. Deputy High Court judge Lord Carlile said that the [US Patriot Act](#) allows a witness to a terrorist act to be put in prison for up to one year. Home Affairs spokesman Mark Oaten said that Tony Blair is turning Britain into an authoritarian state.³² The UK government along with the US, Canadian German and Australian governments are stripping the people of civil liberties all on the pretext of terrorism. One wonders if this was the ultimate goal of having certain terrorist acts take place - to serve the purpose of extant political leaders consolidating their power to the extent of declaring martial law whenever they please.

On October 17, the British high court decided that information obtained under torture was legitimate. But in fact, [The Anti-Terrorism Crime and Security Act](#) passed in Britain in 2001 is anathema to the postulates of international law, as is the act of using information obtained under torture. The British government, like the US government, appears to disdain the entire body of international law, starting with the Magna Carta, created in the UK in 1215. Numerous organizations, including The AIRE Center, REDRESS, Amnesty International, INTERIGHTS, the Association for the Prevention of Torture, British Irish Rights Watch, Human Rights Watch, The Committee on the Administration of Justice, Doctors for Human Rights, The International Federation of Human Rights, The Law Society of England and Wales,

Liberty, the Medical Foundation for the Care of Victims of Torture and the World Organisation Against Torture, have formed a coalition to fight the draconian new laws that strip away fundamental rights of prisoners, torture victims and civil society by governments veering on a fast course towards fascist dictatorship.[33](#)

1. Afghanistan

"The CIA's secret interrogation center in Kabul, Afghanistan, was called "the Pit" because of its terrible conditions. Abdul Wali, who had fought the Soviets in Afghanistan and...had turned himself in for questioning...died in the hands of a CIA contractor...Sayed Nabi Siddiqui was taken prisoner after he attempted to report police corruption. He too was battered, held naked, doused with cold water, humiliated, and photographed by the Americans at various bases. At one base he was crowded into a wire cage with twenty to thirty other prisoners, with only a bucket as a communal toilet... Eighteen-year-old Afghan citizen Jamal Naseer and his friends had been taken to a Special Operations base where they were hung upside down and beaten with cables, rubber hoses, and sticks. They were also immersed in cold water, forced to lie in the snow, and given electrical shocks. Naseer, severely bruised, died after complaining of abdominal pains. Two other Afghan prisoners held with a Mr. Dilawar, similarly described their treatment at the Bagram compound. One had his hands chained to the ceiling for seven to eight days until they turned black. The other was kept naked and hooded, his legs shackled so tightly that the circulation was cut off and he could no longer walk. Mr. Dilawar, twenty-two years old, died. It was later disclosed that his leg had been "pulpified" by some thirty blows from his US interrogators."[34](#)

Jennifer K. Harbury

On January 18, 2002 Mr Bush made a decision that captured prisoners belonging either to Al Qaeda or the Taliban were not protected by the Geneva POW Convention. As background to this decision, the following memoranda were circulated: The Yoo Delahunty Memorandum of January 9, 2002[35](#) provided the analytical basis for a blanket rejection of the Third Geneva Convention as applied to Al Qaeda and the Taliban. The Rumsfeld Order of January 19, 2002[36](#) was circulated to all combat commanders and stated that Al Qaeda and Taliban prisoners were not entitled to prisoner of war status as laid down in the Geneva Conventions of 1949.[37](#) The Bybee Memorandum of January 22, 2002,[38](#) written by Jay Bybee, Office of Legal Counsel for Alberto Gonzales, is similar to the Yoo/Delahunty Memo but provides further analysis of international law. The Alberto Gonzales memo of January 25, 2002 states that captured members of the Taliban were not protected under the Geneva POW Convention. Gonzales gives the following reasons why the Taliban need not be included under the Geneva POW rules. (1) Afghanistan was a failed state not recognized by the global community of nations, and (2) the Taliban were not a government but a militant, terrorist-like group.[39](#) In response to the January 25th memo of Gonzales, then Secretary of State Colin Powell brought forth counter arguments, including (1) past adherence by the US to the Geneva Conventions, (2) probable furious condemnation by allied nations, (3) encouragement of potential enemies to find 'loopholes' to not apply the Geneva Conventions, and (4) an undermining of US military culture "which emphasizes maintaining the highest standards of conduct in combat."[40](#)

In response, Gonzales said that "even if the GPW is not applicable, we can still bring war crimes charges against anyone who mistreats US personnel." On February 7, 2002 Bush signed an Order which validated the Gonzales and Yoo memos and validated the order of

Rumsfeld on January 19th, 2002. T

The war in Afghanistan lasted just one month. Thousands of men were taken prisoner. What to do with them all? We can't kill them. We can't let them go. We can't try them in an ordinary court system. What happened was that these thousands of prisoners were treated on a completely ad hoc basis. The rules were made up by US soldiers as they went along. From the moment of capture, the prisoners were tortured. Many arrived with broken fingers and other bones, and already pummeled to a pulp. It was no holds barred for the US soldiers. A few of the prisoners were called "high value terrorists" (HVT). Both the FBI and the CIA wanted these special prisoners. The FBI claimed them.

According to Frontline's "The Torture Question" documentary, more than 600 of those prisoners were shackled, wore blinding goggles, hooded and strapped down in metal containers and flown to Guantanamo. " They were "packaged," with no chance of going to the bathroom, and in addition "had the crap kicked out of them."[41](#)

The photos of Abu Ghraib were not the first tortures carried out by the US government. Two years earlier the *Washington Post* reported on incidents of torture and death during interrogations in Afghanistan. The UN Special Rapporteur on Torture kept a continual watch, along with the [International Committee of the Red Cross \(ICRC\)](#), which is mandated to interpret and monitor the Geneva Conventions. The ICRC had already expressed deep concerns regarding US methods of interrogation and their hiding prisoners from the view of ICRC. Generally, when a government does not allow the ICRC to view detainees in any country, it is because they have been tortured and the signs are evident.[42](#) In the State Department's annual human rights review, they are quick to preach to the world about human rights abuses going on in various corners of the world. However, long before Abu Ghraib, it was becoming public knowledge regarding abuses, torture and inhumane treatment being systematically implemented in US-controlled prisons. All these abuses carried out by the US government are against the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

On January 9th, 2002 the Yoo/Delahunty Memo was written in four parts.[43](#) The first part looks at the 18 USC Section 2441 the War Crimes Act, and some of the treaties it implicates. The second part of the Memo looks at whether members of Al Qaeda can claim protection under the Geneva Conventions. The Memo determines that Al Qaeda members cannot. The third part explores whether the Geneva Conventions apply to members of the Taliban. Again, it concludes that the Conventions do not apply because (1) "the Taliban was not a government and Afghanistan was not ... a functioning State," (2) "the President has the constitutional authority to suspend our treaties with Afghanistan pending restoration of a legitimate government," and (3) "it appears ... that the Taliban militia may have been ... intertwined with Al Qaeda," therefore the same decision that applies to Al Qaeda also applies to the Taliban. The fourth part of the memo concludes that customary international law is not binding on the US military or the President.

In fact, the Taliban was very much a functioning government until the US pre-emptive invasion. They controlled the majority of the land and the population. They created and enforced laws and mandates. They carried out military operations and appointed people to military posts. They received diplomatic recognition from several countries. In fact, the US government had relations and negotiations with the Taliban government on several occasions. Hence, the statement in the Yoo/Delahunty Memo that the Taliban was not a

legitimate government is a false statement based on the evidence. The statement in the Yoo/Delahunty Memo that Afghanistan was not a functioning state is also a false statement based on the evidence. It was a functioning government. Its prime defect was that it did not care for the wishes of the US government. It refused to be controlled by the US government. In its last year in power, it stopped growing opium – something the US could not tolerate. The Taliban, for religious reasons and because they saw it destroying so many lives, wanted to eliminate the opium trade in Afghanistan. The Taliban government also refused to allow the US to build a pipeline through its country for oil from the Caspian Sea to the Gulf. For these two reasons, the US needed regime change in Afghanistan, and hence invaded – to build pipelines to bring oil from the Caspian Sea to the Gulf, to make that oil available to US oil corporations, and to restore the opium crop. Since the US occupation, the opium trade has been revived and is now thriving. Today Afghanistan is the third largest exporter of opium in the world. [It is one of the main sources of revenue for the US Central Intelligence Agency.](#)⁴⁴

Regarding the status of prisoners who belong to the Taliban or to Al Qaeda, the Third Geneva Convention (1949) applies. Article 5 of that Convention says that “Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 5, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.” Mr. Bush disagrees with this statement and bases all his decisions regarding prisoners on the Yoo/Delahunty Memo. Whether Bush considers the Taliban to have been a functioning government or not is irrelevant. The individuals captured are citizens of Afghanistan. The US was at war with Afghanistan. Hence captured Afghani citizens are prisoners of war. Afghanistan was a functioning state. However, Mr. Bush recognizes the marionette government of Hamid Karzai, who was sworn into office on December 22, 2001.

IV. Guantanamo

*“What is new about President Bush’s [Military Order No. 1 issued on November 13, 2001] is that it radically erases any legal status of the individual, thus producing a legally unnamable and unclassifiable being. Not only do the Taliban captured in Afghanistan not enjoy the status of POWs as defined by the Geneva Convention, they do not even have the status of persons charged with a crime according to American laws. Neither prisoners nor persons accused, but simply “detainees,” they are the object of a pure de facto rule, of a detention that is indefinite not only in the temporal sense but in its very nature as well, since it is entirely removed from the law and from judicial oversight. The only thing to which it could possibly be compared is the legal situation of the Jews in the Nazi Lager [camps], who, along with their citizenship, had lost every legal identity, but at least retained their identity as Jews. As Judith Butler has effectively shown, in the detainee at Guantanamo, bare life reaches its maximum indeterminacy.”*⁴⁵

Giorgio Agamben in State of Exception

On arrival in Guantanamo, prisoners coming out of the metal containers from the planes were put into dog cages, constructed of chain link fences attached to concrete floors. The smell, as described in the Frontline documentary, “The Torture Question,” was a rancid, filthy smell. “It’s raw human beings down there.”⁴⁶ Apparently, whatever happened in Iraq first happened in Guantanamo. Guantanamo was the training ground, where experiments were conducted on prisoners in laboratories (also called cages). All the sexual degradation,

the stripping of prisoners, shackling them to the floor naked, keeping them there ten-twenty hours at a time, thus forcing them to defecate and lie in their own defecation – Major General Jeffrey D. Miller referred to all this as “facilitating” interrogation. He said it was to “soften up” the prisoners and prepare them for interrogation. This Major General Miller was sent to Iraq to “Gitmoize” Abu Ghraib. Of course, all this softening up, all this ‘facilitation’ is against the Geneva Conventions and Convention Against Torture. Only because the American government was forced by law to release a few prisoners from Guantanamo has the whole story of horrendous abuses come out in the open – like a Pandora’s box. The fact that the US government kept prisoners in Guantanamo without court hearings, incommunicado, without habeas corpus, and under conditions of torture already means that the US government has committed war crimes. In both Guantanamo and Iraq there are private contractors like [CACI International](#)⁴⁷ that are engaged in torturing prisoners. Yet, international law applies both to individual citizens as well as to nation states. It was George H.W. Bush in 1990 who first decided arbitrarily that Guantanamo was a law-free zone. He declared that the US Constitution did not apply to Guantanamo.⁴⁸

The New York-based Center for Constitutional Rights first became alert on learning that so-called terrorists would be shipped to and incarcerated in Guantanamo. They understood that Bush had declared this as a law-free zone, not bound either by American law or international law. They knew that those arrested would be held without charges, incommunicado, be denied court hearings, and thus would be there forever, under likely horrible conditions, including the use of torture. The Center for Constitutional Rights stated that the courts of America “will reaffirm the principle that we are a country of laws where people cannot be imprisoned at the whim of the chief executive.”⁴⁹ As CCR Director Michael Ratner says, the prison complexes at Guantanamo are “a symbol of the disdain with which the Bush administration has brushed aside longstanding precepts of international law and civilized conduct. It is indeed a national disgrace.”⁵⁰

Guantanamo has provided the US government a geographical location in which they can hold prisoners and claim that the prisoners are outside any legal or moral system because Guantanamo does not constitute a legal part of the US.

Many prisoners at Gitmo have their heads shaved and are kept in metal cages subject to the elements- often in stifling heat of the sun. What is happening in Guantanamo has incurred the outrage of the entire world. What is happening in Guantanamo is a moral blasphemy and a blight on the United States that will take decades to erase. Further, if Americans treat foreigners like animals by stripping them, putting them in cages, chaining them face down to the floor, [causing them to lie in their own excrement](#),⁵¹ then Americans should certainly be prepared to get the same treatment by other countries. Even without the heinous war in Iraq, Guantanamo alone became a symbol for the entire Muslim world of the cruel, evil nature of the United States. No Muslim would tolerate the crimes they know take place in Guantanamo. What evolved later in Abu Ghraib surpassed all bounds for Muslims. It is the reason why the US will never win the war in Iraq or in any other country, because most countries have something called national pride. The people will not allow themselves to be so much degraded. They will not allow themselves to be treated like dogs. If a foreign occupier treats their fellow citizens worse than dogs, there is no way the people of Iraq or Afghanistan or any other Muslim country will tolerate it. The US, by its atrocious, disgraceful behavior, has hastened the entire Muslim world to bear arms against them. If a foreign country came and occupied our country and took thousands of us prisoners, shaved our heads, stripped us, forced us to walk naked in front of the opposite sex, forced us to perform

sodomy on each other, would we not do the same? Would we not give full support to any insurrection to get such barbaric people out of our country??

How did Guantanamo get started under Mr. Bush? In October 2001, the Northern Alliance “scooped up ten thousand people.” Directly after this, the Northern Alliance together with various Afghan warlords picked up another 35,000 to 40,000 people. Nearly all were civilians. We can call it the crime of the 21st century. Most were handed over to the US military, who kept the prisoners in Bagram and Kandahar, Afghanistan. This is where the first interrogations began – the interrogations outlawed by the Geneva Conventions. Some prisoners were picked up in countries far away from Afghanistan, such as in Bosnia, Zambia and Gambia. In January 2002 the US military began to ship the prisoners ([literally ship them in big containers](#),⁵² in which hundreds suffocated to death – reminiscent of when slaves were brought from Africa in the holds of ships where thousands died) to their new and apparently final prison in Guantanamo. At this point in time, The US was in a state of war with Afghanistan. Hence at least the Afghans taken as prisoners, according to international law, should have been considered as prisoners of war (POWs) and treated according to the laws laid down in the Geneva Conventions. It is legal to set up a POW camp during time of war. But it is illegal to set up an interrogation camp anywhere in the world. If there is any question as to whether a particular prisoner is a POW, then again by law, a tribunal must be set up to determine his status.⁵³ But the present Bush administration refuses to conduct even this minimal act of justice. If the tribunal decides the prisoner is not a POW but rather a civilian, then the prisoner must be tried as such for any crimes committed. Sometimes the said tribunal will ascertain that the prisoner is only a civilian, that he is not a POW, and neither did he commit any crime. Rather he was picked up by mistake. For this very reason, it is critical to conduct the “competent tribunal” procedure. But, under no circumstances can he be classified as neither POW nor civilian and be left suspended in mid-air, or as it turns out left shackled to the floor of a cage, never to see justice in his life. To do this to any human being is a war crime. It defies international law. It defies the US Constitution. And it defies the laws of God – it defies moral laws. As per international law, every human being in the world is entitled to due process. No human being is outside the law.

Guantanamo Bay Naval Station was a US military base comprising 45 square miles at Guantanamo Bay, Cuba. The imperialistic United States had coveted a base in Latin America and particularly had an eye on Cuba and Puerto Rico. In 1898 when Cuba was fighting for independence from Spain, the US intervened in what became known as the Spanish-American War, with the pretense of helping Cuba. However, one year later the US had complete control over Cuba, Puerto Rico and the Philippines. Cuba wrote its own Constitution in 1901 which, due to American coercion, included the Platt Agreement. This Agreement gave the US the right to intervene in Cuba under certain conditions. It also gave Guantanamo to the US as a military base. The lease, in order to be terminated, must have the consent of both parties. Fidel Castro wanted to terminate the lease in 1959 itself at the end of the revolution. But to this day, he is unable to do so unless the US government gives its consent. The lease states that the 45 square miles of military base are to be used as a coaling station. But in fact, the base has been used only as a brutal prison complex, either for refugees or now for terrorists, and the US considers Guantanamo as bound by no laws in the world. This means that the US government has broken the stipulations and regulations in the Treaty which should be grounds for dissolution of the Treaty. According to the CCR, Guantanamo is a territory of the United States and is therefore bound by US federal law. This would give American courts authority to investigate detentions and allegations of wrongdoing in Guantanamo. In addition, when Bush can nullify and void all the laws of the

world, it would seem then that Castro could and should also nullify the treaty that is now more than 100 years old and no longer in Cuba's interests, if it ever was.

Michael Ratner says that Guantanamo is a "21st century Pentagon experiment that was ... outlawed by the Geneva Conventions of 1949. ... it is an interrogation camp, and interrogation camps are completely and flatly illegal."[54](#)

The Bush administration's main argument regarding Guantanamo was that no alien held as prisoner by the US outside the US has a right to litigate his detention in a US court. So if a man is held prisoner either in Guantanamo, Cuba or in Bagram, Afghanistan or also on the island of Diego Garcia in the Indian Ocean, that man is not allowed to walk into an American court – even though he is held prisoner by the American military. According to people in Washington, such persons have no legal rights whatsoever – not to habeas corpus, not to the First, Fourth or Fifth Amendments of the US Constitution, no right to due process or to any hearing of their case, or hearing to determine whether their imprisonment is valid or not.

In June 2004 the US government created the Combatant Status Review Tribunal (CSRT), comprising of panels of military officers whose job was to confirm or deny each prisoner's status as a so-called "enemy combatant." In fact, this is a term concocted by Gonzales, Libby, Cheney and others in the White House. The CSRT never existed before in law, and neither did the term 'enemy combatant' exist. These terms and rituals have all been created as a means for the present American government to commit war crimes.

According to Amnesty International, every prisoner held at Guantanamo comes under international law and hence is entitled to habeas corpus – a full judicial review to determine why he is being held. If he is innocent, he must be released without further delay. Even if the US was at one point at war with Afghanistan, it is no longer at war. Yet the status of Afghani prisoners in Guantanamo remains unchanged. This is illegal. The men in Guantanamo are covered not only by international but also by human rights law. The US government cannot hold these men due to conflict in Afghanistan because the conflict is over, and the Americans have finished installing their puppet regime in Kabul. By refusing to free Guantanamo prisoners, the US is committing war crimes and breaking the Geneva Conventions. The American government is comprised of such corrupt, cruel and callous men and women that they genuinely believe there exist human beings who are not legally entitled to humane treatment and not legally entitled to protection of basic rights and freedoms as prisoners. What stands out in this war is the horrid psychological torture used by the American soldiers and CIA. An FBI agent reported seeing a 'detainee' in Guantanamo "sitting on the floor of the interview room with an Israeli flag draped around him, loud music being played and a strobe light flashing."[55](#) Another agent told of dogs being used to terrify a prisoner who had already been kept for three months in isolation in a cell with 24-hour light. The prisoner later behaved in a manner typical of a person undergoing extreme psychological trauma. It is the new torture of the US government. As is known from domestic violence, the physical beatings are eventually forgotten by abused wives. It is the psychological torture, the taunts, jabs, denigrations, slander, and psychological abuse that the wife remembers usually for the rest of her life. Similarly, the prisoners of this imperialist war will remember the psychological torture meted out by their American captors for the rest of their lives. US soldier Erik Saar writes in his new book, *Inside the Wire: A Military Intelligence Soldier's Eyewitness Account of Life at Guantanamo*:

"To me, Gitmo represents failure on two fronts. The first failure is a moral one. Our

government's dangerous dance around the Geneva Conventions and the use of questionable tactics on the detainees at Gitmo and elsewhere is morally inconsistent with what we stand for as a nation. We claim to honor the principles of justice and human rights. I didn't personally see anything that I would label torture as most people understand the word. But I saw many things that were dehumanizing, that degraded us all."[56](#)

Once in Guantanamo, the prisoners were first kept in outdoor cages, like dogs. Interrogation yielded no results. Rumsfeld became upset. The UN Conventions Against Torture says clearly, no coercion of detainees. Rumsfeld wanted the Geneva Conventions out of the way; hence, lawyers drew upon the War Powers Authorization, which gave the president virtually unlimited powers to do whatever he wanted to whomever he wanted. At this point, Yoo and Delahunty sent their now famous memo to Attorney General Alberto Gonzales, in which they said that this new situation of global terrorism rendered the Geneva Conventions null and void, an antique, obsolete document. Rumsfeld claimed that the prisoners at Guantanamo were the "worst of the worst," and were therefore not eligible to protection under the Geneva Conventions. Colin Powell disagreed, and sent Bush a memo saying it would be ill-advised to ignore the Geneva Conventions and international law in the treatment of prisoners.

As shown in the PBS documentary, "The Torture Question," prisoners at Gitmo were shackled to a stretcher and wheeled by four soldiers over to Camp Delta where they were interrogated. But, the prisoners were belligerent and uncooperative. (Is it any wonder?) INTEL had no patience, and wanted immediate results in terms of information regarding pending terrorist attacks. Rumsfeld was very displeased with the lack of results of interrogation. He put big pressure on the military. Director Michael Ratner of the Center for Constitutional Rights says, maybe they had the wrong guy. Maybe the men they had in Guantanamo were not terrorists. Maybe they were ordinary civilians.[57](#) In fact, eventually half of the prisoners were released and returned to their native countries to be further tortured or released. What does this tell us? That at least 50 percent of the Gitmo prisoners were innocent civilians. Yet, we can be sure that up to the point of release, all of them were tortured, stripped, sexually degraded and humiliated. All these things were done in violation of the Geneva Conventions, the Conventions Against Torture, and numerous other treaties and conventions that form international law. Where are the reparations for these innocent human beings? Who will undo the damage done to their bodies and souls? In fact, despite increasing the torture as per Rumsfeld's direct orders, interrogators came to understand that the prisoners simply had no information. None of them had information. If any of the prisoners were active in the war, if any were involved in terrorism, they were simply being used as fodder by Al Qaeda intelligentsia. Al Qaeda, as Frontline points out, is a middle-class phenomenon. Al Qaeda leaders have university degrees.

Rumsfeld became more angry and sent General Keane to locate the problem. Keane reported back that the man in charge, General Baccus, was too kind to the prisoners. Baccus was almost immediately relieved of his command, and in his place, Rumsfeld sent General Jeffrey Miller. At this point in time 625 inmates occupied Guantanamo along with 1400 military police (MPs) and military intelligence (MIs). Miller immediately took charge. He made all personnel greet each other by saying, "Honor bound," upon which the soldier greeted would reply, "To defend freedom."[58](#) He said that the prisoners had been trained to resist interrogation and needed to be broken down. He started the strategy of extreme psychological and cultural torture. He learned what their vulnerabilities were. He put them into mental depression. And of course, many committed suicide or tried to commit

suicide. FBI agent John Clodman says that at this point, the military personnel at Gitmo had crossed the gray line. Miller combined the Mis and the MPs, while Rumsfeld authorized new and much harsher interrogation techniques, which included isolation for weeks or months, 20 hour interrogations, removal of clothes, the use of dogs to terrify them, shackling them face down to the floor for 20 hours or more at a time and putting them in other stress positions – unbearable positions. PBS’s “The Torture Question” shows conclusively that Rumsfeld was intimately involved in every step of the process of torture of the Gitmo detainees. He even created a new definition of torture, which said that torture refers only to when there is organ failure or death. Everything else does not come in the category of torture. The famous Bybee memo said that Bush can authorize whatever is necessary in the time of war, and of course, as *Washington Post* writer Dana Priest says, since 9/11, this administration has said hundreds of times that we are in a time of war. One prisoner in particular, Mohammad Al Qatai, was subjected to every kind of torture: sleep deprivation, food deprivation, attacks by dogs, being forced to urinate all over himself, being put on a leash like a dog, being questioned by female interrogators who used their sexuality to harass and infuriate him, having a female interrogator straddle him. When questioned, the Pentagon responded by saying, “We wanted them (the interrogators) to be creative.”

Mr Yoo, of the famous Yoo and Delahunty memo, claimed when questioned that torture does stop terrorist attacks. Here the question arises in the mind of this author: is Mr. Yoo a man, or is he an animal, that he would inflict extreme torture on other human beings without batting an eye. Even animals are far kinder to one another. Even tribals in the hills of India and the deserts of Africa are kinder. They would not think of treating another human in this manner. So who knows more about civilization, what it means to be a civilized human being – the tribals in India and Africa, or the white Caucasian men dressed in dark blue suits, with huge bank accounts and riding in limousines every day to the White House? Who presently occupies the White House – human beings or barbarians – beasts masquerading as humans?

Seeing all these atrocities, all these violations of international law, the FBI personnel stationed at Gitmo were angry. They said, this is unlawful interrogation. Eric Saar in his book describes in detail (he was present and translating) the example of how one female interrogator taunted and tortured a prisoner by taking off her shirt and fondling her own breasts. For a devout Muslim, this is torture. Then she asked the prisoner, did he know that she has her period? Whereupon she unzipped her pants, put her hand into her underpants and withdrew them covered with what appeared to be blood. Then she smeared her hands all over his face. He screamed in fury and despite his shackles lunged at her.⁵⁹ A western man may not have cared much, due to western moral standards. But for a Middle Eastern man, this was real torture, extreme psychological torture, the worst kind of degradation an American could do to an Arab. One can only imagine to what extent the level of hatred of Americans has been raised as a direct result of these and other interrogation and torture tactics. The readers need to watch PBS’s “The Torture Question” to understand the magnitude of Rumsfeld’s intimate involvement in torture, everywhere. And again, we need to remember; most of these prisoners were innocent civilians.

As the FBI agents at Gitmo said, when a prisoner is shackled to the floor face down on his stomach for 18 to 24 hours, has urinated and defecated and then forced to lie in all of it, and is then found in a fetal position with huge chunks of his hair pulled out and on the floor next to him, this man is of no use as far as intelligence is concerned. He has gone mad. A mad man cannot help either the FBI or the CIA, or even Mr. Rumsfeld. As North Carolina Senator

Lindsey Graham said, "This is not who we are."

But, the virus called Guantanamo is now on the march and is [becoming a pandemic](#).⁶⁰

V. Iraq

"The officer and NCOs [of the US Army's 82nd Airborne Division, 1st Battalion, 504th Parachute Infantry Regiment, stationed at Forward Operating Base Mercury - FOB Mercury, near Fallujah] interviewed by Human Rights Watch say that torture of detainees took place almost daily at FOB Mercury during their entire deployment there, from September 2003 to April 2004. While two of the soldiers also reported abuses at FOB Tiger, near the Syrian border, the most egregious incidents allegedly took place at FOB Mercury. The acts of torture and other cruel or inhuman treatment they described include severe beatings (in one incident, a soldier reportedly broke a detainee's leg with a baseball bat), blows and kicks to the face, chest, abdomen, and extremities, and repeated kicks to various parts of the detainees' bodies; the application of chemical substances to exposed skin and eyes; forced stress positions, such as holding heavy water jugs with arms outstretched, sometimes to the point of unconsciousness; sleep deprivation; subjecting detainees to extremes of hot and cold; the stacking of detainees into human pyramids; and the withholding of food (beyond crackers) and water."⁶¹ [Human Rights Watch](#)

The above statement by Human Rights Watch demonstrates that US torture of Iraqis pervades across the length and breadth of Iraq. However, it does not cover all the abuses of the US government. Steven H. Miles, in his article "[Abu Ghraib: Its Legacy for Military Medicine](#)," tells us that US military medical personnel were complicit in the torture of prisoners in Iraq, Afghanistan and Guantanamo. Hence American doctors are guilty directly or by association of violations of international law with regard to treatment of prisoners. Specifically, the medical personnel are guilty right alongside the military personnel of violating the Geneva Convention Relative to the Treatment of Prisoners of War. The laws passed at this Convention apply to all human beings. Prisoners of the US government are not exempt from these laws, even though at present Bush believes they are exempt. Bush and Company claim that al Qaeda is not a state and hence does not come under the protection of Geneva Conventions. In February 2002, Mr. Bush signed an executive order stating that while the Geneva Convention did not apply to Taliban prisoners, the US will continue to be a strong supporter of the Convention. The wording of this particular order puts the authority of Mr. Bush way above the authority of the Geneva Conventions or any other international laws. Thereafter memos from the US Justice Department to the president listed specific cruel, inhumane or degrading treatment that would be allowed in American detention centers. In essence, the Bush administration played with the wording in both memos to the president as well as the wording in the Geneva convention, to recuse themselves from any responsibility for their actions. The present politicians running the United States want the unbounded freedom to torture anyone at will. Why? They already have everything they could possibly want - unlimited money and political power. When nearly all of the Guantanamo prisoners are innocent civilians scooped up by careless mistake into American military nets, why is the present American regime so hell-bent on torturing these utterly powerless, helpless, and above all innocent human beings? Is it sadism? Do we assume that we have a group of sadists running the United States government? Is this the reason we hear stories of purposeful bombing of the levee that flooded poor black areas in New Orleans? The sadism witnessed in Guantanamo, in Abu Ghraib, Bagram and other torture centers begins to remind us of other torture centers of the

past, such as under the regimes of Stalin and Hitler.

Towards the end of 2002, Secretary of Defense Rumsfeld approved what the administration called "Counter Resistance Techniques."⁶² These include nudity, isolation and exploiting fear of dogs for interrogating Al Qaeda suspects. In reality, both men and women prisoners were stripped and forced to remain naked for extended periods. Naked women prisoners were forced to walk in front of naked men prisoners. In the night those same naked [women were raped repeatedly by US soldiers](#).⁶³ This is the reality of Abu Ghraib. So far as this author knows, nothing has changed. But the sadists inside the White House and inside Abu Ghraib became more cunning, more careful in hiding their activities from the eyes of the world. The naked men were forced to perform oral sex on one another and to masturbate themselves in front of US soldiers. They were passed around as pornography. Prisoners were forced to climb onto one another like animals, while US soldiers in sadistic glee took photos. American soldiers treated them worse than animals. The dogs used to terrify the prisoners were treated more humanely than were the prisoners. American medical personnel at all levels participated in the interrogations, degradation and torture of prisoners. They had no knowledge of the Geneva Conventions or the Convention Against Torture. It has now been widely reported in the mainstream media that prisoners in Iraq and Afghanistan are beaten and burned. They are routinely given electric shocks to their genitals, are suspended in the air, in some cases are dying from asphyxia, threatened with harm to their families, are sexually humiliated, kept in isolation for weeks at a time, have their heads covered in black hoods for prolonged periods, are shackled and exposed to the elements. Prisoners suffer from calculated sleep deprivation, are deprived of food and clothing, and denied hygienic products to keep themselves clean. Women are similarly abused, including sexual abuse and rape. When this happens, their lives are over, because even if they are released from prison, they will be killed by their husbands or fathers for the crimes inflicted on them. They will be judged guilty along with American soldiers. In one case, a prisoner's shoulder was badly injured, and the doctor told him to keep it immobilized. When told this, the guard instead suspended the man from that same shoulder. What does it say of the US military? For sure they were brainwashed during their training. They were taught that every Iraqi, man woman and child, is a terrorist, and that they are sub humans more akin to gorillas; hence, they should be treated accordingly. In another case, a prisoner was beaten and tortured until unconscious. The doctor present revived him and then the torture continued. Is it not something we read about taking place in apartheid South African prisons and South American prisons? In still another case, a man was picked up by the US military and found months later by his family in an Iraqi hospital. The US medical report stated that the prisoner suffered heat stroke and consequent heart attack. In fact, the man was now comatose, had three skull fractures, and the bottom of his feet were covered with burns.⁶⁴

All these tortures, humiliations and degradations took place from 2003 onwards, from the beginning of the war in Iraq. It was systemic, and the system was widely known and approved of by all military ranks in Iraq. But it was only in January 2004 that the Army began to investigate the tortures. Many excuses can be given for the tortures of mostly Iraqi civilians by the US military. The bottom line is that the people in the White House did not care. Neither did the Pentagon. Rather, they took conscious efforts to ensure that any torture that did occur was "legal." Francis Boyle, Professor of Law at the University of Illinois, in his most recent article, "[Iraq and the Laws of War](#)," states:

"As the belligerent occupant of Iraq, the United States government is obligated to ensure that its puppet Interim Government of Iraq obeys the Four Geneva Conventions of 1949, the

1907 Hague Regulations on land warfare, US Army Field Manual 27-10 (1956), the humanitarian provisions of Additional Protocol One of 1977 to the Four Geneva Conventions of 1949, and the customary international laws of war. Any violation of the laws of war, international humanitarian law, and human rights committed by its puppet Interim Government of Iraq are legally imputable to the United States government. As the belligerent occupant of Iraq, both the United States government itself as well as its concerned civilian officials and military officers are fully and personally responsible under international criminal law for all violations of the laws of war, international humanitarian law, and human rights committed by its puppet Interim government of Iraq, such as, for example, reported death squads operating under its auspices."[65](#)

Boyle further points out that any move on the part of the United Nations Security Council to alter even a drop of the laws of war is illegal. In other words, if the Security Council attempts to condone, authorize or approve present violations by the US and the UK of the Four Geneva Conventions of 1949, the 1907 Hague Regulations, the humanitarian provisions of 1949, and the customary international laws of war, would be a legal nullity, and void ab initio.[66](#)

As time went on, Bush and Rumsfeld redefined the term 'torture.' And then came the "shock and awe" bombardment of Baghdad, which continued in all its immense cruelty for three weeks. Later the world learned, there were no weapons of mass destruction. There was no Saddam Hussein. There was rampant criminality. And there was a growing insurgency against this invasion of their country. The Iraqis had low-tech military capability, but they had the highest motivation – freedom from foreign invasion and occupation! As Secretary of the Army Thomas White said, nobody imagined the insurgency.

Once again, Mr. Rumsfeld gave the orders: capture, interrogate, and get the information. Hence, way more MPs were needed. A much larger prison was needed because thousands of prisoners had already been arrested. Where to put them all? Hence later in the summer of 2003, tens of thousands of National Guard troops came over, to occupy and interrogate the mostly Iraqi civilians taken prisoner by invading forces.

General Janet Karpinski was put in charge of upgrading and running the infamous Abu Ghraib prison that was similarly used in the Saddam era. Abu Ghraib covers a 280-acre area enclosed by a huge wall along its entire perimeter. It had space for thousands of prisoners. Rumsfeld was demanding quotas of arrests to be fulfilled each week. According to a soldier working in Abu Ghraib who spoke anonymously to PBS's Frontline, soldiers did whatever they wanted. The raided homes in the night, tortured the inhabitants in their own homes, beat them up, put black hoods on them, and dragged them off to Abu Ghraib. According to this soldier, 98 percent of these civilians are innocent. They have nothing whatsoever to do with terrorism, Al Qaeda, or insurgents. Despite this truth, hundreds of thousands have been dragged off to Abu Ghraib to face abominable tortures, including sexual abuse, rape, sodomy, forced nudity, vicious dogs, being beaten to a pulp, and suspension from hooks. The photos say it all.

Dana Priest of the *Washington Post* told Frontline, all these prisoners are covered by the Geneva Conventions. But, despite the Red Cross statement that 70-90 percent of the inmates are ordinary, innocent civilians, Washington continues to insist that all prisoners at Abu Ghraib, Guantanamo and elsewhere are terrorists. Rather, many US soldiers look upon the Geneva Conventions as a joke. And as we know, the Bush administration created a new term for all present US prisoners of war, which is 'unlawful enemy combatants.' We need

only to read the Third Geneva Convention to know who are the really unlawful enemy combatants.

When queried by Frontline as to who carried out the interrogations and torture, a soldier responded saying, "It was just all sorts of spooky people." Contractors, civilians, all in civil dress and sent to interrogate with unbounded liberties, not bound by Army regulations and certainly not by international law.

Then Rumsfeld brought Jeffrey Miller over to Iraq. The first thing Miller told Karpinski was, "Treat the prisoners like dogs." Janet Karpinski told Frontline, "They wanted to blur the lines." According to her, Guantanamo and Afghanistan were the models to be used at Abu Ghraib. Abu Ghraib was the final laboratory, organized in detail by Sanchez, Miller and Rumsfeld. And orders for torture, for interrogation came right from the top – from Mr. Rumsfeld.

The tortures increased, due to intense pressure from Rumsfeld to get information. Save a soldier's life, he said. Here was the propaganda that led to condoning all the tortures and humiliations in Abu Ghraib. Military police along with military intelligence blurred the line completely, stripping prisoners naked, taunting them with sexual innuendos, setting dogs loose in their cells. The techniques perfected at Gitmo became routine in Abu Ghraib. In "The Torture Question," we learn of one detainee in particular called Detainee 07, who faced extreme tortures. He was forced to crawl on his stomach while US soldiers urinated all over him. He was forced to wear women's underwear, and was beaten up with a broom. A police stick was used to sodomize him. Female soldiers took turns throwing balls at his genitals. It is sheer sadism. After Detainee 07, the nakedness and sexual degradation spread all over Abu Ghraib. According to Frontline, all the senior commanders knew full well what was going on, but nobody objected to the torture. Military intelligence officers made videotapes to send home to their sweethearts. Many soldiers had digital cameras which they took in the night to cell blocks 1A and 1B, where tortures took place all night.

Then began the investigations. Mr. Rumsfeld had the audacity to tell the American press that the guards at Abu Ghraib adhere to Geneva Conventions. He further claimed (knowingly lying) that Abu Ghraib was an aberration. However, a new report by the 82nd Airborne said that the torture was not an aberration. It was routine. It went on every day. Sergeant Anthony Lagoraurus participated in the tortures. He kept prisoners in a state of hyperthermia. He brought huge German Shepherd dogs into the cells to bark and jump all over the hooded prisoners, terrifying them out of their minds, terrifying them so much they would urinate in their jump suits. Frontline asked Sergeant Lagoraurus, how could dogs be used? He replied, "I was ordered to do so." He followed orders of his superiors.

Most of the present abuses taking place today are never photographed. Prisoners are put into shipping containers and sent anywhere in the world. Soldiers crash into homes in the night and attack the people in their sleep, beating them up, breaking their bones. A soldier in Iraq today told Frontline anonymously, there are no more cameras. People are doing whatever they like. As Senator Lindsey Graham of North Carolina said, "American values should win over any war." Senator John McCain in the fall of 2005 attached an Amendment to stop the torture of prisoners, and it passed the Senate 90 to 9.

In the PBS Frontline documentary, "The Torture Question," numerous witnesses described the tortures taking place in Guantanamo, Afghanistan, Iraq and places of rendition. Prisoners were covered with urine and feces. Frontline said, it was diabolical. Prisoners were

put in constant fear of being raped.⁶⁷ The soldier interviewed by Frontline said, it wasn't about getting information. It was pure sadism. When Senator John McCain, himself a former prisoner in Vietnam, came to know of the tortures taking place at Abu Ghraib and Guantanamo, he vehemently objected, saying, "This isn't about who they are. It's about who we are." Senator Lindsey Graham joined him, saying, "We cannot become the enemy in the name of defeating the enemy."

In Iraq, individual soldiers were reporting abuses both orally and in writing, to their superiors. However, the Pentagon turned a deaf ear and a blind eye. Only when the Red Cross and Seymour Hersh alerted the entire world to the abuse and torture taking place in Iraq did the Pentagon and White House take notice. This was not out of remorse but rather to urgently carry out damage control.

VI. Rendition

"On each stage of his journey, as he descended further and further into the gulags and torture chambers of the war on terror, Benyam Mohammed al-Habashi was shadowed by British intelligence. The British were there in Karachi when Americans interrogated him and Pakistanis tortured him; they were feeding questions to the Moroccan torturers who took a scalpel to his penis; they stood back and watched as he was dragged to an American torture chamber in Afghanistan and then to the gulag called Guantanamo, where he languishes to this day. Al-Habashi is a perfect example of what happens to a person who has been subjected to "extraordinary rendition." This process sees someone suspected of involvement in terrorism snatched off the street, usually in a third world country, then flown around the world by the CIA to regimes which indulge in torture, to be questioned on behalf of the US."⁶⁸ Neil Mackay

Along with refusing to provide, and lying, about the full list of names of prisoners in the various US military detention centers in Guantanamo, Iraq, Afghanistan and elsewhere, there is the further problem in this disgraceful war of disappearances and rendition. The nameless prisoners are referred to now as "ghost detainees."⁶⁹ Regular news comes in the media regarding the act of secret arrests at any airport in the world of any person, and that person being silently removed by the CIA to countries known for their torture of prisoners. An example is the case of Australian citizen Mamdouh Habib, who was 'taken' by the CIA and transferred in secret to Egypt, where he underwent unspeakable torture. After six months of torture, he was transferred again by the CIA to Bagram Force Base, then to Kandahar, then to Guantanamo Bay, where he has been since May, 2002. Recently, Amnesty International learned that the Bush administration is negotiating with Egypt to return him back to that country, with full knowledge that he will once again undergo torture. He will again go through electric shocks, water torture, physical assaults and beatings, being suspended in the air from a hook, and threats using vicious dogs trained to attack. In every case of such renditions, US agents have been present during the actual transporting of the victim as well as during torture sessions. Not only are the victims, the prisoners, undergoing unbounded suffering, but their families are likewise in mental agony and torture not knowing where their son is, what his condition is, or whether he will ever be released. These relatives refer to their missing loved ones as the "disappeared."⁷⁰ Is there any difference, then, between what the US military does openly today compared to what the Argentine government did to their citizens in the seventies? There was a time when the US administration heartily condemned such abuses of human rights, such atrocious violations of international law. But today the administration became somewhat silent as regards the

topic of human rights, while continuing to show sheer disdain both for its own courts as well as international courts and the international community of nations. The great Spaniard Francisco Saurez was the first to talk about the need for international laws that would apply to the larger community of nations, to the collective body of human beings on this earth. In the present age of American Empire, where is that community of nations?

Neil Mackay, in his article "Torture Flights: The Inside Story," which appeared in the *Sunday Herald* on October 16 2005, provides deeply distressing facts about modern rendition. He writes, any man could be walking on the street anywhere – let's say Sweden, Italy, Albania, Indonesia, Pakistan, Canada, US or Britain, and suddenly be kidnapped in broad daylight, hooded, drugged, shackled, then put on a CIA-operated jet and taken forthwith to a country like Morocco, Egypt, Jordan or Uzbekistan – countries where extreme torture is routinely carried out and sanctioned by the government.⁷¹ On reaching the site, the prisoner is handed over to the local secret police and essentially becomes a 'disappearance' – a 'disappeared' person. It is exactly what occurred en masse in Argentina back in the eighties. If these prisoners are lucky, they will emerge months or years later, alive. They may be freed. Or they may end up in Guantanamo, a wreck of a human being, broken by beatings, electrocution, suspensions, rape, sodomy and other perverse sexual assaults. If they are less lucky, we never hear of them again. They die. They are the unknown victims of American rendition. Yes, it is American because it is organized by Americans and carried out by Americans. Generally American CIA agents are present during the tortures, the interrogations. Or they simply tell the local torturers the information they need, and the torturers get it. They get it through torture. Most men will say anything and do anything to avoid torture. Britain is in close cahoots with the US regarding rendition. Since 9/11, the CIA's fleet of 33 planes regularly stop over at British and Scottish airports to refuel, including Glasgow, Heathrow, Gatwick and Belfast.⁷² Britain gets payback for its whole-hearted support of American rendition. British intelligence agents also get to question the prisoners via a local torturer. In contrast, other countries revile American rendition, because they have some moral conscience, some moral compunction. For example, Italy has issued arrest warrants for 19 CIA agents who kidnapped a man in Milan in 2003 and took him to Egypt for torture. Sweden is also outraged at kidnappings that have occurred on its soil.

The criminal George Bush claims that renditions are entirely legal, and that prisoners of rendition are not tortured. How much can he lie? His own State Department says that Uzbekistan, Egypt and Morocco routinely accept rendition prisoners and routinely use torture.

In another article also published in the *Herald* on 16 October, Mackay gives the example of Benyam Mohammed al-Habashi, a tragic victim of what is called "extraordinary rendition," which means getting snatched off the street anywhere and then being flown to places around the world which specialize in torture, to be questioned on behalf of the US government. On arriving in Morocco, al-Habashi was beaten until he vomited. But this was nothing. One day they took him to a room with meat hooks hanging from the ceiling. He was hoisted up and shackled and beaten until unconscious. When he woke up he heard screams from other neighbouring rooms. [Mackay writes:](#)

"During his next torture session he was tied up again. His clothes were cut off with a scalpel and he was left naked in front of his captors. His torturer-in-chief told one of the guards: "Show him who's a man." The interrogator then began to slice his own chest with the

scalpel...

*“One of them,’ al-Habashi’s statement says, ‘took my penis in his hand and began to make cuts. He did it once, and they stood still for maybe a minute, watching my reaction. I was in agony, crying, trying desperately to suppress myself, but I was screaming... They must have done this 20 or 30 times in maybe two hours. There was blood all over ... They cut all over my private parts. One of them said it would be better to just cut it off as I would only breed terrorists .. there were even worse things. Too horrible to remember, let alone talk about.”*⁷³

In total, al-Habashi spent 18 months in Moroccan detention. He was tortured with the scalpel once a month. He asked a guard why they were doing this to him and was told: ‘It’s just to degrade you so when you leave here you’ll have these scars and you’ll never forget. So you’ll always fear doing anything but what the US wants.’” In addition to this worst of tortures, he was subjected to extreme sleep deprivation, drugged, forced to watch pornographic films, forced to watch naked women walking in front of him. Al-Habashi says that only thinking of Jesus and prophet Mohammed saved him.

From Morocco al-Habashi was taken to Kabul where he was thrown into a dark cell full of urine and feces. All the interrogators wanted was for him to make a statement against Joe Padilla, the so-called ‘dirty bomber,’ and say that together they had built a dirty bomb in New York. From Kabul he was sent to Bagram Air Force Base. From Bagram he was flown to Guantanamo. There the American interrogators helped him to compose his confession, word for word. The entire confession was a lie perpetrated by the American intelligence. His lawyer, the famous human rights activist Clive Stafford Smith, is now suing the British government for its part in al-Habashi’s torture.⁷⁴

One prisoner was Sheikh Ibn al Ibi, considered to be an Al Qaeda leader and head trainer of terrorists in Afghanistan. The FBI was reasonably careful in its handling of prisoners and interrogation techniques. According to the Frontline documentary, “The Torture Question,” aired on October 18, 2005, they adhered to international law and Geneva Conventions. But the CIA had no patience, and finally took Sheikh Ibn al Ibi from the FBI and flew him to Egypt in a CIA-rented business jet. Michael Ratner calls this the outsourcing of torture. The prisoner was tortured in Egypt and finally confessed to numerous crimes. Secretary of State Colin Powell used this confession as the basis and justification for invading Iraq. Months later, Sheikh Ibn al Ibi resurfaced a free man. He told the media that he made everything up under the duress of torture. He said whatever his interrogators, his torturers, wanted him to say.

In still another article in the *Sunday Herald*, Neil Mackay writes that the two men who know more than anyone about extraordinary renditions are Michael Scheuer, the CIA chief who invented rendition, and Craig Murray, the UK ambassador to Uzbekistan who saw first hand the implementation of rendition by Uzbeks.⁷⁵ Both these men told the *Sunday Herald* that rendition is illegal, that there is no legal justification for it, that the US government deliberately refuses to use a legal alternative to rendition, and that US-made rendition has completely undermined so-called Western democracy and done inestimable harm to British and US intelligence.

Bill Clinton’s National Security Council asked the CIA to break up al-Qaeda around the world. When Scheuer asked how to do this, they told him, any way you like. As the CIA has no prisons and no powers of arrest, it presented a temporary problem for Scheuer. When he

developed the program, he stipulated clearly that arrests, detentions and interrogations had to be part of some legal process. In addition, the country in which the man was seized had to support his arrest by the CIA. Scheuer further said that every prisoner would be taken to US as a US prisoner and be protected under the Geneva conventions. Furthermore, the CIA as a whole never believed there was any purpose to torturing suspected al Qaeda suspects. Scheuer had some sort of moral compunction. Today it is a different story. Today anybody can shout 'terrorist.' Today no convictions, and no warrants are required. Today the country's permission is not required. Today, as Mackay as described, they are taken anywhere and tortured in any way until they sign the confession the US wants them to sign. It is nothing to do with the truth, with the facts. According to Craig Murray, Uzbekistan is one of the worst places in the world for torture. In Uzbekistan, prisoners are sometimes boiled alive in cauldrons in the Tashkent torture chambers of the SNB, the Uzbek secret police. The US and UK use the statements of prisoners extracted under torture. But, they know full well that the statements are lies. Prisoners admit they know that planes were to be flown into buildings in country X, though in reality they know nothing about such planes. The confessions are sent to the CIA, who issues them as a debriefing document, saying the information was sent from a friendly overseas security service.[76](#)

Statewatch News Online reports that the UK Court of Appeal on October 17, 2005 ruled that evidence gathered outside of Britain using torture can be used in British courts. The appeal against this decision was made by ten men being held indefinitely under the Anti-Terrorism, Crime and Security Act of 2001. The men have no idea why there are being held. Their appeal was almost unanimously rejected. The decision to use evidence gained through torture was passed 2-1. The men will now appeal to the House of Lords, the highest court in Britain. Lord Justice Laws and Lord Justice Pill said the information gained may be so important as to justify the means by which it was gained.[77](#) British Home Secretary David Blunkett was pleased with the decision. Gareth Peirce, solicitor for eight of the prisoners, said, "This is a terrifying judgment. It shows we have completely lost our way in this country, morally and legally." An Editorial that appeared in the *UK Guardian* on October 18, 2005 declared:

"What is shocking is to see two of the highest judges in the land ready to ignore these international conventions. International law depends on the mutual respect of member states as a means of enforcement. None of the other 44 states that have incorporated the European convention on human rights has introduced detention without charge or trial, let alone allowed evidence generated by torture."

1. Silent No More - Suffering Humanity Waits

"The Fuhrer says: right or wrong, we must win. It is the only way. And victory is right, moral and necessary. And once we have won, who is going to question our methods? In any case, we have so much to answer for already that we must win, because otherwise our entire nation - with us at its head - and all we hold dear will be eradicated."[78](#) Joseph Goebbels

The exposure of torture at the hands of US forces has not embarrassed the Pentagon at all. Rather, it has emboldened them to construct legal gimmicks to get around torture conventions and to extend the practice of torture worldwide. Rumsfeld and Company know that human rights activists are building up grounds for charges. When charges were filed in Belgium and Germany, Rumsfeld used threats to stop the process. This is why Rumsfeld

needs to maintain his power by ensuring US global hegemony. Torture is destined to flourish so long as the US maintains this hegemony.

As Professor Francis Boyle says, the United Nations has become completely complicit in the American and British crimes in Iraq and Afghanistan, in violation of the customary international laws of war stated as follows in the US Army Field Manual 27-10 (1956): "... complicity in the commission of crimes against peace, crimes against humanity, and war crimes..."⁷⁹ Boyle rightly proclaims that the United Nations is walking down the same path taken in 1945 by the League of Nations towards the ignoble dustbin of history. Along with the UN's demise, we can already see Bush and Blair racing towards a new Judgment of Nuremberg, if justice indeed prevails.

More and more people are beginning to speak out. Their former shyness can no longer keep pace with their outrage at man's barbarism and cruelties to his fellow man. Earlier this year we saw the final Declaration of the [World Tribunal on Iraq](#) with the notable members of its Jury of Conscience passing their verdict on the US government and all complicit governments. In the last week another Commission of Conscience has been formed, called the Bush Crimes Commission, sponsored by Not in our Name.

As Maxine Waters shouted to the delegates at the Rainbow Coalition conference in Chicago in June, 2005, "Bush is a liar!" In fact, they are all liars. The Bush administration insisted that dogs are not used against the prisoners in Guantanamo. Major General Jeffrey Miller testified under oath that no dogs were used. But now we know from FBI agents on the scene that dogs were indeed used to terrify the prisoners. Furthermore, there is an intimate link between the interrogation team and the medical team in Guantanamo. They work hand in hand, together studying the files of prisoners to determine their weak points, then use those weak points to inflict torture. A new article published in *The New England Medical Journal of Medicine* shows that medical personnel even assisted in the manner of interrogation, based on sleep deprivation and other tactics catered to a particular person's medical records. Another tactic currently used by the Bush administration is to lie regarding the actual number of prisoners in Guantanamo, just like they are lying about the number of dead bodies found in the floodwaters of New Orleans.⁸⁰ By lying about the numbers, the US military gets the chance to detain and torture so-called "ghost detainees" both in Guantanamo and Iraq that nobody in the world knows about. Because nobody knows of their detention, nobody can help them. As Michael Ratner, Director of the Center of Constitutional Rights, says, they are trying hard to get the names of Guantanamo inmates in order to fight for them, but the government refuses to provide those names.

Michael Ratner, who has worked his entire life at and is now Director of the Center for Constitutional Rights in New York, has an interesting life story to tell. In the beginning, he said, he fought for the liberals, the protestors. For example, he fought for the right to travel to Cuba, for individuals tortured or killed in the illegal US war with Nicaragua, for the rights of refugees, and freeing Haitians with HIV from Guantanamo where they were held incommunicado as common prisoners.⁸¹ Today, Michael Ratner is a changed man. The cases he fights are different. Today he fights for basic human rights. He calls them core values. ⁸² It is as if human civilization has gone backward in time, that Ratner today must fight for very basic, fundamental human rights that were simply taken for granted two decades ago in the US. Such rights include what has been enunciated in this paper: the right not to be tortured, the right not to be detained indefinitely, the right not to be disappeared, the right to habeas corpus, and the right to be tried before a regular, legitimate tribunal instead of a secret, makeshift, kangaroo court. These basic human rights apply not just to

Americans but to all human beings. And Americans, as so-called leaders of the world (or once were) are to set the example in their civilized, humane treatment of prisoners of war. Ratner took on the most controversial cases possible, in the face of slander and abuse from his compatriots. He had no choice. As he saw it, there has been an extreme erosion since the year 2000 of the basic principles of justice. There have been terrible attacks, he says, on the US Constitution and on international law by the very men who should be the world leaders as regards morality and justice – the American government. Mr. Bush has destroyed or rendered obsolete the 800 year old Magna Carta, which says that no king and no president, no state leader is above the law. The Magna Carta also says that you cannot torture people, and you cannot deny anyone due process of law. In a similar manner, Mr. Bush destroyed or rendered obsolete the United Nations. What will he destroy next? Whom will he destroy next?

The reality is, we now live in a post-Magna Carta or neo-medieval world. In such a world, people are at the mercy of the whims of kings, of Fuhrers and of presidents. The rule of law as an objective, universal code of morality is eroding. Ultimately, today, international law is what the president of the United States says it is. International law is not defined by human rights activists. Rather, it is defined by the deeds of the president. It is no small coincidence that the prophet of the neoconservative movement, Leo Strauss, protégé of lawyer Carl Schmitt, who provided the legal justification for Hitler's dictatorship, advocated just such a political philosophy.

“‘The Fuhrer [the US president today] is no organ of the state,’ wrote Schmitt, ‘but the highest judge of the nation and the highest law-giver.’ Law was not some abstraction, he wrote in 1935, but should reflect the plan and aim of the lawgiver. Above all, the law served to isolate and exclude the enemies of the state; the state defined who was ‘friend’ and who was ‘foe’ (Freund oder Feind), and the law imposed exclusion. Schmitt applauded the leader who could seize the moment at times of national crisis and act with iron decision to turn these aims into concrete legal provisions. Law reflected the primacy of political leadership, and thus supplied ‘a more profound idea of legality.’”⁸³

This Nazi doctrine is rudimentally the same as that of John Yoo and the Bush administration. In the face of such a global threat from the present US administration, there must be a global movement that is committed not merely to protesting US policies, but is committed to bringing them to justice in a court of law. In addition, the concept of purely Americans or any other nation being privileged with rights and the concept of that any world leader can deem any human being as sub-human and rightless must for once be consigned to the dark pages of history. Only such a Neo-humanistic outlook that refuses to discriminate between people based on their nationality can save us in our times.

Just imagine, if it were your mother or father, your brother or sister who was taken in the night, thrown in prison and then made to undergo all these tortures? Would you not go mad to think of your dear one in this situation? Why is it that we refuse to adopt the mindset that we are one race called the human race, that every human being is our brother and sister, mother and father, son and daughter. That therefore, what is done to every human being is done to our own dearest relative. That therefore, if any human being is hooded, shackled, thrown into prison, raped, sodomized and tortured, it is our own sister or brother. We must feel that much pain, and we must work just as hard for their liberation as if it were our own blood relative in that prison. Shrii Prabhat Ranjan Sarkar has said:

“The absence of an integral outlook is the root of most problems. Mighty people are

perpetrating atrocities and injustices on the weak. Powerful human groups are exploiting weaker ones. Under such circumstances it is the duty of honest people to declare war on the oppressors. It is not wise to sit quiet indefinitely in the hope that only moral persuasion will bring the desired results. Hence all the honest people have to be united. There should be necessary preparation for war against the oppressors. People who perpetrate any sort of oppression on collective life or on any human group cannot be pardoned. To pardon people under these circumstances not only shows weakness but also encourages injustice, consequently the oppressors become still more reckless.”⁸⁴

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