

# The U.S. Still Tortures with Impunity

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*Here we go again. More disturbing news arises about the depth of the U.S. torture program; a few politicians express their disgust at it; the U.S. media complex becomes complicit in the continuation of the program either by their adumbration of torture (Fair.org reported extensively on this in December and January), or by their silence; and the torture program itself continues and deepens, until the next report, when the cycle will repeat again.*

*So once again, with the latest news of U.S. torture policies, we must raise the salient issues concerning torture, and rekindle the anti-torture movement until others can see not only the degree to which our own government conducts its confinement policies with such sadistic brutality, but to realize that the same degree of brutality which the government is willing to inflict on “foreigners” is the degree of brutality to which we become susceptible from our own domestic jailers, as well as from those who confront U.S. intervention abroad.*

Specifically, by the end of June, we learned two new crucial things about the U.S. torture program that, once again, the corporate media ignored almost in entirety. First, we learned through a report from the Center for Constitutional Rights, that Guantanamo prisoner Majid Khan testified that he had been subjected to torture that was far more brutal than the U.S. Senate report on torture made public last year. Khan testified that, among other tortures, he had been waterboarded, raped, sexually abused, subjected to solitary confinement in total darkness, and hung by his wrists for days at a time from ceiling beams. Every one of these actions is a direct violation of international law and of our deepest and most humane ethical convictions. Any one of these treatments, by themselves, would constitute an international crime against humanity. Taken together, the obvious conclusion is that the U.S. torture program is not only alive and well (unlike its prisoners), but is a program that is itself flaunting international conventions and basic ethical behavior.

The second—and more horrifying—thing we learned in June was that the CIA crafted its own internal regulations that permitted the agency’s director to override all international law in its torture practices, and to go the furthest ends of sadism: *experimentation on human beings*. Again ignored by the U.S. media, it took the *Guardian* from London to publish the document “AR 2-2, Law and Policy Governing the Conduct of Intelligence Activities.”

Don’t feel bad if you had not heard of these developments. Most people haven’t, thanks to our enabling media complex.

But now that the information has become public through non-mainstream media channels, we can respond to such deliberate and culpable media ignorance by continuing to underscore four issues in public discourse and protest: the definition of torture, international laws on torture, reminders of what substantive ethical arguments condemning torture should say, and understanding the final purpose of torture: control over people.

## 1) Defining Torture

The internationally accepted definition of torture comes from the *U.N. Convention against Torture* (UNCAT, which came into force in June, 1987): “the intentional infliction of severe physical or mental pain or suffering for purposes such as obtaining information or a confession, or punishing, intimidating or coercing someone.” Treating civilians in such fashion would be illegal, according to this convention.

## 2) International Law and Treaties on Torture

That torture is heartily disapproved by nations worldwide may be seen by examining some international laws concerning torture. For example,

-The *U.N. Convention against Torture* (UNCAT): Article 1, Section 2: If a nation has signed the treaty without reservations, then there are *no exceptional circumstances whatsoever* where a nation can use torture; and Article 3: “No State Party shall expel, return or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

-The *U.N. Universal Declaration of Human Rights*, Article 5: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

-The Third Convention: Article 3; Part III, Section I; Article 87 (“Collective punishment for individual acts, corporal punishment, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden”); Article 130: (condemns “torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health”)

-The Fourth Geneva Convention, Article 3; Article 32 (“This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents”); and Article 147.

-The Geneva Conventions Additional Protocol I, Article 75

-The Rome Statute of the International Criminal Court, Article 7: Torture and abusive treatment are “crimes against humanity” and Article 8: Torture is a war crime

-The European Convention on Human Rights, Article 3: “Prohibition of torture:” “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

The United States has ratified and signed the Universal Declaration of Human Rights, the Geneva Conventions, and UNCAT.

Furthermore, U.S. Federal law specifically defines and prohibits torture (U.S. Code, Chapter 113C, 2340): “torture means... [inflicting] severe physical or mental pain or suffering,” including the administering of mind-altering substances,...threats of death, [and/or] threats of severe physical pain.”

## 3) An ethical argument against torture

Premise #1: As a general moral principle, most people intuitively reject torture as abusive to persons physically and psychologically

Premise #2: International Law consistently condemns abusive treatment of detainees (dealt with above).

Premise #3: Torturing a “suspect” is immoral and illegal as well. “Suspect” means “innocent,” both legally and morally. Thus, if torturing a morally innocent person is immoral, so is the torturing a suspect.

Premise #4: Empirical givens. First, Torture almost never accomplishes the stated goal of information-gathering (see Alfred McCoy, *A Question of Torture*). Second, once torture starts, even with low level actions such as face-slapping, there is no stopping it, both in method or in regular use.

Premise #5: Normative premises:

a) Using a person as a means to an end is immoral, according to the normative argument used in Terrorism, above.

b) International Law forbidding all torture is based on a moral conception of human rights.

c) Human rights is based on notions of human dignity and autonomy. Thus, any justification for torture must include a rejection of: i) conception of common human nature; ii) universal human rights.

d) There is no “moral ought” to torture. But if torture is in fact taken in this way, then anything is permitted, since torture is the final crossing point between civilized behavior and barbarity.

Compare these five premises to U.S. history. The U.S. has a long history of ignoring any law that does not suit its own self-interest. Torture is no different. (See Alfred W. McCoy, *A Question of Torture*). For example, from 1950-1962, the CIA conducted massive, secret research into coercion and the malleability of human consciousness which, by the late 1950's, was costing a billion dollars a year. This research produced a new method of torture, “no-touch” torture. Additionally, by 1967, the CIA was operating 40 interrogation centers in South Vietnam that killed over 20,000 Viet Cong suspects. Finally, this practice was the same one used in Kabul on Al Qaeda suspects in 2002, and seen in Abu Ghraib. Now, here we are once again confronted in June and July of 2015, with powerful instances in which the U.S. has not only ignored its international law obligations, but has sought to flout them completely.

The standard objection to my argument against torture is, of course, to appeal to cases of one-off instances, such as the ticking-bomb scenario (i.e. a bomb is going to explode in a heavily-populated area, and under routine questioning, the suspect will not provide information as to its location). There are several replies to such concocted scenarios.

First, it is important to note that the empirical evidence shows not only that the torture will not merit the intended goal of information, but that even if it does result in getting information, tests show that in 60 out of 100 instances, interrogators could not distinguish between the truth or falsity of the information they got.

Further, there are several false assumptions about the ticking-bomb dilemma. First, the objection assumes that the evidentiary requirements for police to act to defuse the bomb or vacate people cannot and would not be met in real-time. It assumes further that there is no other way to obtain information regarding the bomb than to torture a suspect; that the suspect has all the knowledge the detainers need to get to and defuse the bomb; that the suspect will surrender all this knowledge without leaving any pertinent detail out, prior to the bomb exploding, etc. Second, these types of scenarios all presume that our legal and governmental institutions can make the necessary determinations about when torture is called for a permissible. Third, they all presume that our legal and governmental institutions can control when and how torture is used, and to what extent.

#### 4) The ultimate purpose of torture

The most important thing to keep in mind in discussing torture is that it is the complete denial of the humanity of the tortured, and simultaneously the total control over another person, reducing them to the moral status of an inanimate object. Presumably, that is precisely what those who torture, such as our own CIA and some local police departments in the U.S., want: not information, but total control over people. On the other hand, if a state and its people are willing to embrace or willfully ignore their own government's torture practices, the only form of government that is possible for that society is totalitarianism: complete control of people, with no limitation.

It is a truism because it has been repeatedly demonstrated, that any government that is willing to inflict such extreme violence on the hated "other," the "foreigner," will be willing to inflict it on their citizens as well, in order to maintain and control them and to enhance its own power. U.S. citizens, especially minorities, have testified to such torture being used against them in our own domestic prisons. Thus, to fight it before it becomes entrenched as an instrument of local as well as federal government policy to control its citizens is not only a practical imperative, it is a moral imperative as well.

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