

Torture of Detainees under CIA Custody: Damning Exposé of the International Committee of the Red Cross (ICRC)

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On March 12, Mark Danner, in a New York Times op-ed and The New York Review of Books, wrote about the ICRC's revelations of "US Torture: Voices from the Black Sites." He said George Bush (in 2007) "informed the world that the United States had created a dark and secret universe to hold and interrogate captured 'terrorists,' " - at locations outside America, Guantanamo and elsewhere.

Operated by the CIA, it "used an alternative set of procedures....designed to be safe, to comply with our laws, our Constitution and our treaty obligations. The Department of Justice reviewed the authorized methods extensively and determined them to be lawful."

He lied to conceal what this writer called "Torture As Official US Policy" in a July 18, 2008 article. It was authorized at the highest government levels and confirmed by a virtual blizzard of official documents beginning with a September 17, 2001 secret finding empowering CIA to "Capture, Kill, or Interrogate Al-Queda Leaders." It authorized establishing a secret global network of facilities to detain and interrogate them without guidelines on proper treatment.

It was followed on November 13 by Military Order Number 1 that amounted to a coup d'etat on constitutional freedoms and hinted at what would follow. It let the president, on his say alone, capture, kidnap or arrest anyone, anywhere in the world, then hold them indefinitely in secret locations, without charge, evidence, or due process in a court of law.

Various other documents, findings, Executive Orders, and memos authorized interrogation practices amounting to torture. Most infamous were two memos by John Yoo (as deputy assistant attorney general), Alberto Gonzales (as White House counsel), Jay Bybee (now a federal judge), and David Addington (as Dick Cheney's chief of staff and legal counsel).

On August 2, 2002, they argued for letting interrogators use harsh measures amounting to torture, OK'd them against "terrorists" during wartime, and said US and international laws don't apply for overseas interrogations.

On March 14, 2003, the same quartet issued another memo titled "Military Interrogation of Alien Unlawful Combatants Held Outside the United States." It became known as the "Torture Memo" because it erased all legal restraints and authorized military interrogators to use extreme measures amounting to torture. It also gave the president "the fullest range of power....to protect the nation (and stated he) enjoys complete discretion in the exercise of his authority in conducting operations against hostile forces."

In December 2002, Donald Rumsfeld, as Defense Secretary, approved a menu of illegal interrogation techniques consisting of anything short of what would cause organ failure. He issued direct orders to military commanders to conduct them against “suspected terrorists,” meaning anyone in their custody.

Under George Bush, torture was official policy. It remains so under Barack Obama in defiance of US and international laws that prohibit it under all circumstances, at all times, with no exceptions allowed ever. Under the Constitution’s Article VI (the supremacy clause), international law is part of US law, and US presidents take an oath under Article II, Section 1, Clause 7 to “preserve, protect and defend the Constitution.” Article II, Section 3 requires the president to “take Care that the Laws be faithfully exercised.”

The US Code’s Title 18, Chapter 113C (2340) defines torture as follows:

- any “act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering....upon another person within his custody or physical control;”
- it includes “infliction or threatened infliction” of severe mental or physical pain and suffering, including use of “mind-altering substances;”
- threatening “imminent death;” and/or
- “the threat that another person” will be subjected to any or all of the above listed offenses.

Various US laws prohibit torture in any form for any purpose, including the 1994 Torture Statute and 1996 War Crimes Act. Numerous international laws do as well, including the:

- (US 1994 ratified) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- four Geneva Conventions; the first two protect the sick and wounded in battle; the third defines who is a prisoner of war and establishes minimum treatment standards, and the fourth protects civilians and requires that they be treated humanely - not falsely called “unlawful enemy combatants” to get around the law, which doesn’t apply anyway as all forms of torture and mistreatment are strictly banned.

The four conventions have a Common Article Three that prohibits all forms of “violence to life and person,” including cruel abuse, torture, and all types of humiliating and degrading treatment among other provisions.

The International Committee of the Red Cross (ICRC)

Established in 1863, it states its purpose as follows:

The ICRC “is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of war and internal violence and to provide them with assistance.” It also strives “to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.” It has a “legal mandate” to do so under the 1949 Geneva Conventions.

The ICRC report was labeled “confidential” and intended only for senior US officials. On February 14, 2007, it was sent to John Rizzo, the CIA’s acting general counsel. Danner got hold of it, reported individual accounts in the *The New York Review of Books*, and stated:

“Because these stories were taken down confidentially in (detainee) interviews by (ICRC) professionals, and not intended for public consumption, they have an unusual claim to authenticity” – all the more so because all prisoners were isolated, yet corroborated each other’s accounts.

On April 9, *The New York Review of Books* published the full report of what ICRC interviewers learned from visitations with 14 CIA-held “high value detainees” transferred to Guantanamo in September 2006. This article summarizes its findings and recommendations.

It’s Titled: “ICRC Report on the Treatment of Fourteen ‘High Value Detainees’ in CIA Custody”

The ICRC “consistently expressed its grave concern over the humanitarian consequences and legal implications of (America’s practice) of holding persons in undisclosed detention in the context of the fight against terrorism.”

Beginning in 2002, it made regular “written and oral” requests for information on them – to “various levels of the US Government” without response.

On September 6, 2006, George Bush publicly announced that 14 “high value” detainees were transferred to the Guantanamo-based, CIA-run High Value Detainee Program. Earlier they were at undisclosed locations. Prior to this announcement, ICRC had no knowledge of them or a CIA detention program – even though it requested information on 13 by name.

From October 6 – 11, 2006, ICRC met with all 14 in private for the first time, then again from December 4 – 14. This report described their arrests, transfers, incommunicado detention, and treatment in detail, initially and later on. It also explained their health care, the role of the medical staff, legal ramifications of secret incarcerations, other CIA detainees, and the “future use of the CIA detention program.” The Defense Department got a separate report.

Main Elements of the CIA Detention Program

All 14 prisoners described harsh treatment, from the start, lasting for days or months, amounting to physical and psychological torture – “with the aim of obtaining compliance and extracting information.” When considered in total and for their duration, the evidence is “all the more disturbing.” In addition, all 14 accounts were consistent, adding to their credibility. By “ill-treatment,” ICRC meant, singly or in combination, they “amounted to torture and/or cruel, inhuman or degrading treatment.”

Arrest and Transfer

Listed by name, they were arrested in four different countries (Pakistan, Thailand, Dubai and Djibouti) between March 2002 and May 2005, reportedly by their police or security forces, sometimes in the presence of US agents. They were initially held by the arresting country, then transferred elsewhere (reportedly Afghanistan), then on to other nations. US and/or national authorities interrogated them, but America controlled the process. They were in up to 10 locations prior to Guantanamo.

Transfer procedure was as follows:

- detainees were photographed clothed and naked prior to and after transfer;
- body cavity checks were conducted;
- in some cases suppositories were administered;
- diapers and tracksuits were worn;
- earphones were used through which loud music was sometimes played;
- blindfolds and black goggles were applied and, in some cases, cotton was taped over their eyes; in one case, the head gear was so tight it caused wounds to the nose and ears;
- hands and feet were shackled;
- sitting positions were reclined with hands shackled in front;
- trips lasted for one to 30 hours;
- toilet visits were denied for their entirety so necessary urination and defecation were into diapers;
- some transport placed detainees flat on the plane's floor with their hands cuffed behind their backs; it caused severe pain and discomfort; and
- the entire experience was disorienting and created feelings of futility, isolation, and helplessness "making them more vulnerable" to the torture described.

Continuous Solitary Confinement and Incommunicado Detention

Throughout their incarceration (lasting 16 months to four and a half years), all 14 were in solitary confinement. "They had no knowledge of where they were (and had) no contact with persons other than their interrogators or guards." They had no legal or family contacts or access to news from outside, except for some later on. They were effectively disappeared.

Other Ill-Treatment Methods

It was especially harsh during the first few days or months and included:

- waterboarding "suffocation by water poured over a cloth placed over the nose and mouth, alleged by three of the fourteen;"
- prolonged stressed standing, naked, with arms extended and chained above their heads, alleged by 10 of the 14, continuously for two or three days, and intermittently up to three months;
- beatings by use of a collar around their necks used to forcefully bang their heads and bodies against the wall, alleged by six of the 14;
- beating, kicking, slapping, punching to the body and face, alleged by nine of the 14;

- confinement in a severely restricting box, alleged by one detainee;
- prolonged nudity from several weeks to several months, alleged by 11 of the 14;
- sleep deprivation lasting days, alleged by 11 of the 14;
- forced stress positions, standing or sitting, cold water, and use of repetitive loud noise or music, alleged by 11 or the 14;
- exposure to cold temperature, in cells and interrogation rooms, alleged by most of the 14; three had cold water poured over their bodies;
- prolonged shackling of hands and/or feet, alleged by most detainees;
- threats of ill-treatment to them and their families, alleged by nine of the 14;
- forced head and beards shaving, alleged by two of the 14;
- deprivation and restrictions of solid food from 3 days to a month after arrest, alleged by eight of the 14; and
- also deprived of access to open air, exercise, appropriate hygiene facilities, and other basic items as well as restricted Koran usage.

Suffocation by Water

Alleged by three of the 14, it was done as follows: they were strapped to a tilting bed with a cloth over their face, nose and mouth. Water was then continuously poured over the cloth, saturating it so they couldn't breathe to create the effect of suffocation, panic, and feeling they would die. At an appropriate point, the cloth was removed and bed rotated into a head-up, vertical position with the person left hanging by straps securing him to the bed. The procedure was repeated two or more times during interrogation and again in subsequent sessions.

Prolonged Stress Standing

Alleged by 10 of the 14, their wrists were shackled to a bar or hook in the ceiling above the head continuously for up to three days and intermittently for two to three months. They were naked throughout the process. Some were allowed to defecate in a bucket. Others at times wore a diaper, had to urinate and defecate in it, and not have it changed.

Detainees said the procedure caused their legs and ankles to swell. For the most part, they couldn't sleep, but when they did it let their full body weight be suspended, causing added pain to their arms and shoulders.

Beating by Use of A Collar

Alleged by six of the 14, a thick collar/neck roll was placed around their necks, then used to slam them against walls, often concrete. The process was done repeatedly during interrogation and in corridors en route to it.

Beating and Kicking

Alleged by nine of the 14, it involved body and face slapping, punching, kicking, and having their heads banged against solid objects, initially for days, and severe enough to cause bleeding and bruising. It continued for about 30 minutes, then repeated throughout the day and on subsequent days. The technique continued for up to three months.

Confinement in a Box

Alleged by one of the 14, it was specially designed to constrain movement. One was tall and narrow, another shorter, forcing him to crouch down. The stress on legs was very painful, and inside it was hard to breathe. The combination of sweat, pain, and friction from the slightest movement made it even more uncomfortable. The process was repeated for about a week in combination with other forms of torture.

Prolonged Nudity

Alleged by 11 of the 14, it continued for extended periods for up to several months intermittently, during interrogation and regular detention. Detainees said being allowed clothing depended on their degree of cooperation.

Sleep Deprivation and Use of Loud Music

Alleged by 11 of the 14, it was used during initial interrogation for seven continuous days, then intermittently for up to three months. It was done in various ways, including loud repetitive noise or music, long interrogation sessions, prolonged stress standing, and/or spraying with cold water.

Exposure to Cold Temperature and Cold Water

During their initial months, they were kept naked in extremely cold cells and interrogation rooms. Requests for clothing and blankets were denied. Cold water dousing was also used - with buckets or by a hose-pipe while they were in a stress standing position with their arms shackled above their heads for prolonged periods.

Prolonged Use of Handcuffs and Shackles

Detainees reported they were used continuously for long periods, even inside their cells, and in one case for six months.

Threats

Alleged by nine of the 14, they were against them and their families. They threatened waterboarding, electric shock, infection with HIV/AIDS, sodomy, arrest and rape of his family, torture to the point of death, and "no rules applied" interrogations.

Forced Head and Beard Shaving

Alleged by two of the 14, it was done abusively, and according to one, made to look undignified.

Deprivation/Restricted Provision of Solid Food

Alleged by eight of the 14, they got none for up to a month. After that, it was restricted,

limited, and given as an incentive for cooperation. Items included rice and potatoes or bread and gravy.

Further Elements of Detention

Done to increase its harshness, they included continuous solitary confinement, incommunicado detention, no contact with family or third parties, and other above-listed elements. In combination, it made conditions intolerable.

Basic items were denied, including toothbrushes, toothpaste, soap, towels, showers, toilets, toilet paper, clothes, underwear, blankets, and for up to three months mattresses. Things then provided depended on cooperation, but were removed to apply more pressure or for no reason at all. In addition, their prayer schedule and Korans were restricted or denied.

Conditions of Later Stage Detention

To some degree, they improved, depending again on cooperation. Also, after the initial interrogation stages, they got clean clothes on a weekly basis, solid food one to three times a day but of poor quality and in limited amounts. Some got English or their native language books and magazines.

After about eight months of detention, they got in-cell toilet facilities, washbasins, and showers weekly or more often. After several months to up to two and a half years, they could move from their cells to closed indoor areas to use exercise machines. Cell temperatures were also at proper temperatures, and in their final detention period prior to being transferred to Guantanamo, some could watch a weekly film and/or use a portable DVD. Although an improvement from earlier months, they still endured harsh confinement.

Health Provision and the Role of Medical Staff

Detainees said medical personnel:

- monitored their regular torture and directly participated in the use of certain methods; they also instructed interrogators to continue, adjust, or at times stop particular procedures; they told detainees that treatment depended on their cooperation; condoning and participating in torture is a serious breach of medical ethics;
- performed medical checks before and right after each transfer; and
- treated the effects of torture as well as ailments and injuries during incarceration.

Legal Aspects in Relation to Undisclosed Detention

The report noted “a basic tenet of international law” – that “any person deprived of liberty must be registered and held in an officially recognized place of detention,” not somewhere in secret. International humanitarian law has provisions for registering persons deprived of their liberty. It requires that organizations like ICRC get access and prohibits forced disappearances.

The 14 in question were denied these rights “outside the protection of the law during the time they spent in CIA custody.” They had no access to judicial or administrative review, were denied contacts with their families, and had no idea why they were held or so badly

treated. “The totality of the circumstances in which the fourteen were held effectively amounted to an arbitrary deprivation of liberty and enforced disappearance, in contravention of international law.”

Their treatment was “severe and multifaceted,” absent any “scrutiny by an independent entity, including the ICRC.”

Fate of Other Persons Who Passed Through the CIA Detention Program

Post-9/11, many hundreds of them were victimized like the 14 here in question. Some were returned to their home countries “for prosecution or detention by their governments,” according to George Bush. Washington provided ICRC no information about them so it’s unable to monitor their treatment and “ensure communication with their families.”

Given how the above 14 were treated, ICRC expressed grave concerns that many others were subjected to similar tortures and mistreatment.

Future Use of the CIA Detention Program

US authorities told ICRC that “no persons were held in the (program) as of October 2006.” Such claims are false given that George Bush (in September 2006) said CIA detentions hadn’t been discontinued and could be used at any time in the future.

The same holds under Obama. He pledged to protect CIA, military and Bush officials from investigation and prosecution as well as continue its foreign wars and occupation. The CIA’s Director of Public Affairs, Mark Mansfield, told The New York Times that agency chief Leon Panetta said “repeatedly that no one who took actions based on legal guidance from the Department of Justice at the time should be investigated, let alone punished.”

Now it’s policy in Panetta’s April 9 internal memo announcing the administration’s blanket amnesty for all Bush officials torturers and war criminals. It’s the same position Obama took on ABC’s January 11 This Week that he intends “to look forward as opposed to looking backward....we have to focus on getting things right in the future (not) looking at what we got wrong in the past.”

He assured continuity from one administration to the next, repeated violations of domestic and international laws, and torture remaining official US policy along with foreign wars, occupation, counterterrorism, and subversion with the largest ever FY 2010 defense budget to pursue them, way exceeding \$1 trillion, and excluding extras, 78% more than for FY 2000 at a time America has no enemies.

Conclusion

The above 14 prisoners:

- “were subjected to (numerous transfers to) unknown locations and continuous solitary confinement and incommunicado detention throughout” their entire captivity;
- they were force disappeared and deprived of their liberty and rights “in contravention of international law;”
- “they were subjected to systematic physical and/or psychological” torture and mistreatment;

- they endured “severe physical and mental pain and suffering” as well as loss of their human dignity; and
- participation of medical personnel in their treatment “constituted a gross breach of medical ethics” and lawlessness.

“In light of the above, the ICRC remains gravely concerned (for) the fate of” other CIA detainees, “who remain unaccounted for.” It also worries that Washington intends to continue its current practices, in secret, with no accountability, or respect for the law.

It urged the Bush administration to reverse this decision and recommended the following:

- end secret detentions and use of torture and mistreatment;
- act humanely at all times in accordance with the law;
- let detainees communicate with their families;
- assure they have legal representation;
- notify ICRC of all arrests;
- grant it access to all persons held;
- assure allegations of torture and mistreatment are properly investigated, and “take steps to punish the perpetrators;” and
- provide all names of those held under CIA detention; if appropriate, the countries where they were sent, and “other relevant details to allow the ICRC to seek access to these persons.”

The report’s Annex I provided verbatim detainee statements as evidence of their gross mistreatment. Abu Zubaydah’s was one of them. He’s an alleged high-ranking Al-Queda member supposedly close to Osama bin Laden. Excerpts are as follows:

“I woke up, naked, strapped to a bed, in a very white room (about 4m x 4m). The room had three solid walls, with the fourth wall consisting of metal bars separating it from a larger room.” After several days, “I was transferred to a chair where I was kept, shackled by hands and feet for what I think was the next 2 to 3 weeks....I developed blisters (under) my legs due to constant sitting.”

A bucket was his toilet. Water for cleaning was from a plastic bottle. “I was given no solid food during the first two or three weeks.” His liquid food at first made him vomit until he accustomed to it.

“The cell and room were air-conditioned and were very cold. Very loud, shouting type music was constantly playing....twenty-four hours a day,” sometimes “replaced by a loud hissing or crackling noise.” Guards, not interrogators, wore masks. “I could not sleep at all for the first two to three weeks (as) guards would come and spray water in my face” if I tried.

“After about two or three weeks, I began to receive food, rice (once daily). I could eat with my hand, but I was not allowed to wash....I remained naked and in shackles, but I could sleep a little. It went on like this for about another one and a half months.”

He went on to describe torture and mistreatment of the kinds described above. Only later did conditions improve somewhat.

ICRC revelations heighten the need to hold Bush administration torturers (and war criminals) accountable and for Attorney General Eric Holder to appoint an independent special prosecutor to do it. Jameel Jaffer, ACLU National Security Project director called it an “imperative” and said: “Government officials who violated the law should not be shielded from investigation.” It starts at the top, including George Bush, Dick Cheney, Donald Rumsfeld, complicit White House officials, ones in the Justice Department, and all others criminally involved.

A Spanish court took the first step by initiating (torture charge) proceedings against Alberto Gonzales, John Yoo, Douglas Feith, David Addington, Jay Bybee, and William Haynes. It’s time for Obama to stop stonewalling and do it as well – against all parties guilty of torture and war crimes.

On April 7, The New York Times reported that “A three-judge panel of Peru’s Supreme Court convicted former president Alberto Fujimori of human rights abuses and sentenced him to 25 years in prison” – on charges of murder, aggravated kidnapping, battery, and crimes against humanity. Should we in America expect less!

A Final Comment

On April 9, The New York Times Scott Shane headlined: “CIA to Close Secret Prisons, Scenes of Harsh Interrogations.” He cites CIA claiming it’ll “decommission the secret overseas prisons (infamous for their) brutal interrogation methods, bringing to a symbolic close the most controversial counterterrorism program of the Bush administration.”

This announcement flies in the face of clear evidence that refutes it. In his confirmation hearings, new CIA director Leon Panetta told senators “extraordinary renditions” will continue, and no-holds barred interrogations remain policy for anyone and in any situations warranting them.

Despite Obama’s pledge to end torture and close Guantanamo, conditions at the prison are unchanged. Further, Afghanistan’s Bagram Air Base is undergoing a \$60 million expansion to hold 1100 more prisoners, above the 600 now there. Also, other detainees are likely held at any number of the hundreds of US bases globally plus a fleet of at least 17 prison ships – out of sight, anywhere at sea, holding unnamed detainees, and subjecting them to the same harsh and brutal treatment.

Closing Guantanamo, Thai, Polish, and other offshore prisons means moving their detainees elsewhere, not ending the “war on terror” or ways chosen to pursue it. Nothing short of that is acceptable.

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