

Torture, Torture Everywhere

By [Andy Worthington](#)

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For those of us who have been arguing for years that senior officials and lawyers in the Bush administration must be held accountable for the torture program they introduced and used in their “war on terror,” last week was a very interesting week indeed. There were developments in Strasbourg, in London, and in Washington, D.C., that all pointed towards the impossibility of the torturers’ being able to escape accountability forever.

That may be wishful thinking, given the concerted efforts by officials in the United States and elsewhere to avoid having to answer for their crimes, and the ways in which, through legal arguments and backroom deals, they have suppressed all attempts to hold them accountable. However, despite that, it seems that maintaining absolute silence is impossible: last week one breakthrough took place when, unanimously, a 17-judge panel of [the European Court of Human Rights ruled in favor of Khaled El-Masri](#), a German used-car salesman of Lebanese origin. His is one of the most notorious cases of mistaken identity in the whole of the “war on terror.” See the summary [here](#).

According to the [Guardian](#)’s account, the court stated that “CIA agents tortured a German citizen, sodomising, shackling, and beating him, as Macedonian state police looked on” and “found Macedonia guilty of torturing, abusing, and secretly imprisoning [him].” It also noted, “It is the first time the court has described CIA treatment meted out to terror suspects as torture.”

El-Masri was unfortunate enough to have the same name as a man who is alleged to have aided the 9/11 hijackers. When, after a row with his wife, he arrived in Macedonia on New Year’s Eve 2003 for a short break on his own, he was, instead, seized and held in a hotel room for 23 days by Macedonian agents and then handed over to CIA operatives at Skopje airport.

He was then “beaten severely from all sides,” as the court described it, adding, “His clothes were sliced from his body with scissors or a knife. His underwear was forcibly removed. He was thrown to the floor, his hands were pulled back, and a boot was placed on his back. He then felt a firm object being forced into his anus... [A] suppository was forcibly administered on that occasion.” He was then placed in a nappy, hooded, shackled, and put on a plane.

The horrendous treatment continued when El-Masri was flown by the CIA to [the “Salt Pit,”](#) a secret torture prison in Afghanistan, where he was held for five months until the CIA realized that his was a case of mistaken identity, and he was flown back to Europe. Dropped off on the border with Albania, he was abandoned and left to make his own way home, with his incredible story.

Since then, he has found every door to accountability shut, and he has struggled with

mental-health issues as a result of his ordeal. The ruling by the ECHR will help to vindicate this poor man, and the €60,000 (\$80,000) the court also awarded him will presumably be of some use, too.

His victory will not compel the United States to accept any kind of responsibility, of course, but it joins [the conviction in Italy of 22 CIA operatives and a senior U.S. military official](#) for the kidnap and rendition to torture in Egypt of a cleric, Abu Omar, in February 2003. It also furnishes hope that other cases before the ECHR — against Poland, Romania, and Lithuania, for their involvement in the Bush administration’s torture program — will lead to similar victories for those involved (in this case, the “high-value detainees” [Abu Zubaydah](#) and [Abd al-Rahim al-Nashiri](#), who are currently in Guantánamo).

While Khaled El-Masri was securing his victory in Strasbourg, another victim of “extraordinary rendition” and torture, Sami al-Saadi, a Libyan and an opponent of the dictator Muammar Qaddafi, [secured an important victory in the UK](#). The British government agreed to pay him £2.23 million (\$3.5 million) in an out-of-court settlement relating to the key role played by the UK, working with the United States and Libya, in kidnapping him and his family and rendering them to Colonel Qaddafi, who then imprisoned and tortured him.

The British role in al-Saadi’s kidnapping and rendition to torture was confirmed in letters found in the office of Qaddafi’s spy chief, Moussa Koussa, in Tripoli during the fall of Qaddafi last year. They cast the UK in a bleak light, not only in the case of Sami al-Saadi, but also in that of Abdel Hakim Belhaj, another long-term Qaddafi opponent who was also kidnapped (in Malaysia) and rendered to torture with British involvement. Both kidnappings took place in 2004 while Qaddafi was being courted to renounce terrorism and grant the United States and the UK access to his oil fields. Belhaj is still pursuing his claim against the British government through the courts, even though his friend al-Saadi accepted a settlement.

Al-Saadi explained, “My family suffered enough when they were kidnapped and flown to Qaddafi’s Libya. They will now have the chance to complete their education in the new, free Libya. I will be able to afford the medical care I need because of the injuries I suffered in prison.”

He added, “I started this process believing that a British trial would get to the truth in my case. But today, with the government trying to push through secret courts, I feel that to proceed is not best for my family. I went through a secret trial once before, in Qaddafi’s Libya. In many ways, it was as bad as the torture. It is not an experience I care to repeat. Even now, the British government has never given an answer to the simple question, ‘Were you involved in the kidnap of me, my wife, and my children?’”

Again, the United States is not directly implicated, but the reverberations from the settlement cannot be wished away by the United States. It seems there will be more to come in the case of Belhaj, who said of al-Saadi, “When my friend Sami al-Saadi was freed from Abu Salim prison on 23 August 2011, he weighed seven stone. He was close to death. It is a miracle he survived his ordeal and is home with his family.”

The third significant development last week was the approval, by the Senate Select Committee on Intelligence, of [a 6,000-page report](#) that took three years to complete, which provides a comprehensive analysis of the CIA’s torture program under the Bush administration. The report will now be sent to the CIA and the Obama administration,

although it is unclear whether it will ever be publicly released. Because it remains classified, lawmakers were not at liberty to discuss its contents as openly as they might have wished, although their criticism of the torture program was evident. Sen. Dianne Feinstein (D-Calif.) [stated](#), “The report uncovers startling details about the CIA detention and interrogation program and raises critical questions about intelligence operations and oversight.” She also stated, “I strongly believe that the creation of long-term, clandestine ‘black sites’ and the use of so-called enhanced-interrogation techniques were terrible mistakes. The majority of the Committee agrees.”

In addition, Sen. John McCain (R-Ariz.) [stated](#), “It is my hope that we can reach a consensus in this country that we will never again engage in these horrific abuses, and that the mere suggestion of doing so should be ruled out of our political discourse, regardless of which party holds power. It is therefore my hope that this Committee will take whatever steps necessary to finalize and declassify this report, so that all Americans can see the record for themselves, which I believe will finally close this painful chapter for our country.”

Unfortunately, while I also hope, first of all, that the report will be published and, secondly, that it will not be excessively redacted, it is troubling to realize that everything relating to it will be calibrated by those in power to avoid the possibility that anyone will be held accountable for what took place in the darkest years of the Bush administration.

Sad to say, torture remains either off-limits or glorified in the two other places where it counts — in the military commissions at Guantánamo, where the chief judge, Army Col. James Pohl, confirmed last week that those facing trials were prohibited from mentioning the torture to which they had been subjected in the CIA’s “black sites,” and in movie theaters across the country, where Kathryn Bigelow’s new movie, *Zero Dark Thirty*, will soon be showing.

According to Carol Rosenberg in the [Miami Herald](#), Judge Pohl “approved the use of a time delay on public viewing of the Sept. 11 death-penalty trial as well as a censor in his court to make sure nobody divulges details of a now defunct CIA interrogation program, citing national-security interests.” Rosenberg also explained that, in a 20-page protective order accompanying his ruling, in response to a challenge by the ACLU, Pohl spelled out that “anything about their CIA custody is classified, including ‘their observations and experiences,’ meaning the accused can’t say what happened to them at the so-called dark sites in open court.”

In contrast, film director Kathryn Bigelow faces no censorship for her deluded and dangerous account of the events that led to the killing of Osama bin Laden. As Jane Mayer of the [New Yorker](#) explained last week, the film “seems to accept almost without question that the CIA’s ‘enhanced interrogation techniques’ played a key role in enabling the agency to identify the courier who unwittingly led them to bin Laden,” even though “this claim has been debunked, repeatedly, by reliable sources with access to the facts.”

Mayer also explained that the film “does not capture the complexity of the debate about America’s brutal detention program. It doesn’t include a single scene in which torture is questioned, even though the Bush years were racked by internal strife over just that issue — again, not just among human-rights and civil-liberties lawyers, but inside the FBI, the military, the Justice Department, and the CIA itself, which eventually abandoned waterboarding because it feared, correctly, that the act constituted a war crime.”

As movies are so powerful, I fear that Bigelow will be playing a major cheerleading role for the advocates of torture. The best response to the movie, while repeatedly highlighting the case of Khaled El-Masri and the shame of rendering political opponents to Qaddafi to secure his support and his oil, will be for Barack Obama and Congress to make sure that the Senate's comprehensive torture report is released and not hidden away, so that the torturers cannot continue to evade accountability for their crimes.

Without accountability, the toxic virus of torture in America's body politic will continue to infect the whole country with its poison. It is time for the denial to end.

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Articles by: [Andy
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