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Torture and the Tablets of Eternity

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TORTURE AND THE TABLETS OF ETERNITY

"Unfortunately, there are some who think that the way to save freedom in this country is to adopt the techniques of tyranny."

—Hugo Black

"How did we move from a policy of zero tolerance toward torture to a policy of zero-accountability?"

—Harold Hongju Koh

The question is whether there should be investigation, prosecution and punishment of those in the Bush administration who authorized or directed torture of prisoners, or who did the actual torturing.

"The United States does not torture." Thus spake George W. Bush to the American people and the world. It was a brazen lie, we now know. As Andrew Sullivan writes, no other "American president has ever orchestrated, constructed or so closely monitored the torture of other human beings the way George W. Bush did."

Bush, aided and abetted by government lawyers and officials, established what Dan Fromkin labels a "policy of treating detainees with deliberate cruelty, and torturing them. It is objective fact that the Bush administration consciously adopted tactics that are not just morally reprehensible and flatly illegal, but which experts say don't produce reliable intelligence—just coerced confessions."



Since the Nuremberg trials, torture of prisoners by government has been a war crime. Torture violates the Bill of Rights, it violates international law, it violates numerous federal statutes and treaties, and it is a serious felony under federal statutes. Conspiracy to commit torture is also a serious federal felony. Quite apart from its illegality, torture is uncivilized, cruel, barbaric, barbarous, inhuman, monstrous and sick, sick, sick. Torture is intrinsically evil at all times and in all circumstances. It violates what James Froude calls "the moral law... written on the tablets of eternity," and what Victor Hugo calls "the universal conscience of humanity."

Horribly, medical personnel, including physicians and psychologists, assisted the American torturers, and government lawyers John Yoo and Jay Bybee authored secret legal memos twisting and misstating the law and the Constitution in a scandalous endeavor to justify, excuse and legalize torture.

"Torture is among the most fundamental affronts to human dignity, and hardly anything lawyers might do assaults human dignity more drastically than providing legal cover for torture and degradation," writes Susan Carle. "The lawyers involved were like Hitler's lawyers laying the legal groundwork for the murder of Soviet POWs. Not only were their moral objectives reprehensible, but their legal arguments also fell so far outside the standards of plausibility as to stand out as outrageous on this front as well."

I have read those putrescent memos of the torture lawyers, and I agree with Carle. With ophidian heartlessness the memos argue that the awful is lawful and the lawful is awful. In the words of Joseph Palermo, the attorneys who prepared those memos "are nothing but quacks who cooked up their dreary documents under a veil of secrecy... Their 'legal opinions' were pure sophistry and the lawyers who drew them up knew they would never hold up in court or with their peers or the

public." Each of the torture memos, Andrew Sullivan notes, is "the work clearly not of a lawyer assessing torture techniques in good faith, but of an administration official tasked with finding how torture techniques already decided upon can be parsed in exquisitely disingenuous ways to fit the law, even when they clearly do not." These memos are, Bennet Keiley observes, nothing but instruction manuals on how to break the law. They deserve to be compiled in a law book entitled *How to Commit War Crimes and Get Away With It*, although the book would probably sell better under the title *The Idiot's Guide to War Crimes*.

There are few things more inhumane, more Nazi-like, more flagrantly violative of American law and values than torturing helpless captives.

What is absolutely astonishing and appalling is that some politicians, pundits and talk show hosts are now taking sides with the torturers. (These defenders of torture are the same ones who defended Bush's torture policies when he was in office and who treated critics of those policies as traitors.) These torturers' apprentices trot out ingenious arguments to defend the indefensible. They deny that the practices authorized by Bush were torture. They claim that even if it was torture it worked. They say it is vindictive and against the national interest to investigate and punish the torturers and those who authorized the torture. They actually seem to believe that prosecuting those who authorized or carried

out torture is nothing more than unfairly punishing policy differences of opinion. They say that the tortured were satanically evil and that the torturers acted in good faith and were only following orders.

The depravity of these apologists for American-authorized torture and American torturers shocks the conscience. These apologists are invoking the same conscienceless, horrid rationales the Nazi war criminals unsuccessfully invoked at Nuremberg. "I was only following orders," indeed! Furthermore, the Convention Against Torture, which President Reagan signed in 1988, specifically says that "no exceptional circumstances whatsoever... may be invoked as a justification for torture." That same treaty also obligates this country to prosecute torturers or to extradite them for prosecution.

As Michael Kinsley asks, "Why should torturers, of all people, be forgiven?"

Like the Nazi war criminals, George W. Bush arranged for prisoners to be tortured. His accomplices: former vice president Dick Cheney, former defense secretary Donald Rumsfeld, former attorney general Alberto Gonzalez, former secretary of state Condi Rice, and former CIA director George Tenet, all of whom turned the CIA into a criminal organization, like the SS or the Gestapo. They deemed the president to be the torturer-in-chief. They operated on the assumption that the motto of this nation is "In God and Torture We Trust." They believed that torturers—at least American ones—are heroes.

Bush-era torture policies must be investigated and prosecuted. Not simply because terrible crimes were committed. Not just because Bush and his co-conspirators committed atrocities using the power of and in the name of the United States of America. But because, as Paul Krugman writes, *this is necessary to reclaim America's soul*. "If," as Dan Fromkin writes, "the United States is to live up to its core values, if it is to once again be a beacon of human rights to the world and a champion of human dignity," then all involved in the Bush torture program, high or low, must be investigated and prosecuted. How can we be a nation founded on liberty if we give the wink-wink-nudge-nudge to torture of human beings?

The moral law incised forever on the tablets of eternity demands that torturers be punished.

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