

# Witness Against Torture

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

**<https://witnessagainsttorture.com/2016/07/15/the-peoples-convention-platform-torture/>**

## Policy Issue Resources

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Torture is always and in every sense wrong. It is a violation of human rights; a breach of domestic laws and international conventions; a sin to all faiths; a moral outrage; a profound abuse of the body, the psyche and the soul; and an enduring trauma that can destroy individuals, families, and whole communities.

Witness Against Torture calls for the total abolition of torture throughout the world. We demand, in particular, that the United States fully repudiate torture, which became a systematic state practice following September 11, 2001. We sharply denounce the pro-torture candidacy of Republican nominee Donald Trump. Trumps call to bring back plainly illegal torture techniques like waterboarding should alone disqualify him from consideration for the presidency. However, both Republican and Democratic administrations and politicians have been complicit in torture policies over the last 15 years. All lawmakers and candidates have an obligation to relegate torture to the US past.

Repudiating torture entails, most immediately: the rapid closure of the US detention camp at Guantanamo Bay, Cuba; apologies, monetary payments, and other restitution to the post-9-11 victims of torture, as required under the United Nations Convention Against Torture (CAT); the unequivocal disavowal of torture by all presidential and congressional candidates, all elected representatives, and leaders of the US military and intelligence agencies; and meaningful, legal accountability for those who designed, authorized, and carried out torture policies.

### Varieties of Torture

Torture may be committed by militaries, police, other state security forces, insurgents, or terrorists. It may be used as a means of interrogation of captives in war and other conflicts or in campaigns of state repression to control and terrorize people. It may seek information, coerced confessions, or simply to brutalize its victims. It may be applied with obvious sadism or clinical precision. It may even follow protocols developed by lawyers, policymakers, and psychologists and overseen by medical observers so as to evade the law and blunt public concern.

Torture may be physical or psychological in nature. It may be a secret, rogue operation, or have the blessing of elected officials and voices in the media and popular culture. It may be used against perceived enemies in military operations; to punish dissidents so that others remain silent; to break the protests of detained men, such as in the forced-feeding of hunger strikers at Guantanamo Bay; or as a standard procedure in detention regimes, such as extended solitary confinement in US prisons and jails.

No matter the means and circumstances, potential sanction by the state, the justifications offered, and the promise to the torturers of immunity, torture always remains criminal and wrong. Torture has permanent debilitating effects on its victims, its perpetrators, and on the population of others who might be tortured.

### US Torture Before and After 9-11

The United States has long been an outspoken defender of human rights and the rule of law. But the country also has a long history of practicing, sponsoring, and training others in torture. Waterboarding mirrors a similar technique given the ironic name the water cure by US soldiers, who used it in the Philippines at the turn of the 20<sup>th</sup> century. US military and intelligence personnel used torture during the Vietnam War, notably in the interrogation and assassination program Operation Phoenix. In the 1970s and 1980s, the United States instructed Latin America security forces in the use of torture and other terror tactics against civilians. The CIA even paid millions of dollars for academic research into torture, collected in its 1963 KUBARK manual, which details how to apply specific torture techniques. That manual was reissued in 1983, and used by U.S.-supported forces in Central America. Torture, in sum, is part of the United States modern imperial history. Directed at South Asian, Latin American, and now Muslim peoples (from many regions), it is also an expression of US racism.

In the aftermath of 9-11, the United States fully committed to a program of state torture, validated by Department of Justice (DoJ) attorneys and approved by the countrys highest elected officials, including President Bush. Dozens or even hundreds of men were tortured by the CIA in its enhanced interrogation program. That torture took place in black sites in such countries as Afghanistan, Poland and Thailand. Other victims were rendered to countries like Syria and Egypt for torture on behalf of US officials.

Many hundreds or thousands more people were tortured by the United States in its conduct of the so-called war on terror and its wars in Afghanistan and Iraq. This includes the great majority of the nearly 800 men brought to Guantanamo, tortured at various sites (including

Guantanamo itself); men brutalized in prisons in Abu Ghraib, Bagram Air Base and other facilities; and captives abused by uniformed, US military and civilian contractors in multiple theatres of conflict. Indeed, the US abuse of detainees has been rampant in post-9-11 wars and security operations.

That the United States committed widespread torture after 2001 has been proven beyond any reasonable doubt. In late 2014, the Senate Select Committee on Intelligence released the Findings and Conclusions and a 500-page executive summary of its 6,700-page Study on the CIA's Detention and Interrogation Program. Using the CIA's own documents, it chronicles the origins and evolution of the CIA torture program, concluding that it plainly violated US laws. The report also refutes persisting claims that torture yielded valuable, actionable intelligence.

In 2013 the non-partisan Constitution Project issued the report of its Task Force on Detainee Treatment. It identified indisputable breeches of US laws and international treaties based on the detailed reading of specific laws against documented US conduct. Journalists, academic researchers, attorneys and filmmakers have rigorously exposed post-9-11 torture. (Notable works include Alfred McCoy, *A Question of Torture*; Jane Mayer, *The Dark Side*; the ACLU and Larry Siems, et. al., *The Torture Report*; Polly Nash and Andy Worthington, *Outside the Law*, and Rebecca Gordon, *Mainstreaming Torture*.) Finally, international human rights bodies like Amnesty International, the UN Committee against Torture, and the International Committee of the Red Cross have also documented and condemned US torture.

Continued denials by some politicians, military and intelligence officials, and media voices that the United States committed torture or their contradictory insistence that torture produced key intelligence have no bearing on the reality of US conduct.

## **US Torture and the Law**

Torture is illegal under US federal law and international treaties to which the United States is a signatory, and therefore have the force of law. The 1984 United Nations Convention Against Torture defines torture as an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him . . . information, punishing him. . . or intimidating or coercing him.

Based on the Convention, US criminal statute 2340 declares torture, an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering. Other federal statutes and international conventions, such as the War Crimes Act and the Geneva Conventions, outlaw the torture and other abuse of detainees.

The long-rescinded torture memos of Department of Justice lawyers John Yoo and Jay Bybee, which sought to define torture out of existence, have no meaning with respect to the understanding and application of anti-torture laws and treaties.

The United States as asserted in the Senate Torture Report and by the Constitution Project violated the above laws and treaties in its treatment of post-9-11 detainees. President Obama himself admitted in August 2014, We tortured some folks.

## **Torture Abolition and Accountability Platform Positions**

There exists no precedent in US history of state torture on the scale since 9-11. So too, there is no direct precedent for how to reckon with this history, nor agreement among legal and human rights advocates as to the best way forward, especially given current political and legislative constraints and pressures, and the balance between short and long term goals. Below we offer broad imperatives, specific demands and recommendations, and options for their implementation.

### *Close the Guantanamo Prison*

The US detention camp at Guantanamo Bay is both a primary site and enduring symbol of post-9-11 US torture. The prison must close immediately. Its closure should entail:

#### *End Indefinite Detention*

President Bush asserted, and President Obama formally claimed by Executive Order, the right to detain captives indefinitely without charge or trial. This is illegal and wrong. We call for:

#### *End Government Secrecy*

A full and unsparing record of US torture, based on government documents and internal government investigations, must be made public (with reasonable measures to protect potentially sensitive information). The full Senate Torture Report should be released immediately, along with any and all other investigations by US military and civilian agencies into the US treatment of detainees.

#### *Ensure Accountability for Torture*

Torture policies were devised or condoned by our highest elected officials and their staffs, including the President and Vice President, and leading cabinet heads, notably the Secretary of Defense. Torture was carried out by US intelligence officials, civilian contractors, and uniformed US military. It was sometimes assisted by professionals in the fields of medicine and psychology. (The American Psychological Association has since taken a position prohibiting its members from participating in these interrogations.)

And yet almost no one whether they concocted, facilitated, or executed torture policies has ever been held to legal account for their treatment of detainees. Shortly after becoming Attorney General in 2009, Eric Holder announced that the DoJ would not pursue criminal investigations of US intelligence and military personnel operating under the aegis of since-discredited DoJ memos that essentially authorized torture. This was an unconscionable whitewash of criminal activity, as it both effectively immunized torture and accepted the power of the Executive to unilaterally rewrite laws to its liking.

Without accountability for torture, the rule of law and the US justice system stand shattered. The law, moreover, is removed as a deterrent to current and future torturers.

The Peoples Convention seeks meaningful legal and other forms of accountability for US torture. We are motivated not by a desire for punishment but rather the desire for justice for survivors of torture and assurance that the United States will never again torture anyone in its custody. We therefore demand:

*Strengthen Anti-Torture Provisions*

As indicated, US and international law already prohibits torture and the cruel, inhumane, and degrading treatment of detainees. Nonetheless, existing laws can be strengthened. We therefore insist that:

*Expand the Recognition of Torture and Cruel, Inhumane, and Degrading Treatment*

The torture techniques used on detainees in the so-called war on terror have shocked the conscience of the world. But cruel, inhumane, and degrading treatment of prisoners is routine with the US penal system. In particular, the extended use of solitary confinement in prisons and jails including against minors has been denounced by credible human rights and medical bodies as itself a form of torture. Organizations such as Amnesty International have also decried the widespread institutional tolerance of rape in U.S. prisons. The Peoples Convention therefore calls for the abolition of extended solitary confinement in any and all US detention facilities and urges that other harsh and controversial penal practices be challenged in their morality, legality, and consequences.

*Witness Against Torture*