

# Center for Constitutional Rights

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

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### Policy Issue Resources

In the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the United States ratified in 1994, torture is defined as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person by or at the instigation of a public official in order to obtain information or a confession or to punish the person for an act he or a third person has committed or is suspected of having committed, or [for] intimidating or coercing him or a third person for any reason based on discrimination of any kind.

Under Common Article 3 of the Geneva Conventions, acts of violence to life and person, in particular murder of all kinds, mutilation, cruel treatment, outrages upon personal dignity, [and] in particular, humiliating and degrading treatment are prohibited. Furthermore, the U.S. Army Field Manual section 34-52 on interrogations states that the parameters described in the Convention are the definite limits on measures which can be taken to induce an Enemy Prisoner of War to cooperate.

#### What techniques amount to serious torture?

There is no formal list of actions that amount to serious torture. The drafters intentionally left Article 3 vague in order to ensure that no exceptions were found for abusive behavior. Nevertheless, over time, various institutions such as the U.N. Commission for Human Rights, the International Committee of the Red Cross, national courts, and the International Criminal Tribunals have determined that certain actions amount to torture. Additionally, as the European Court of Human Rights determined in *Ireland v. United Kingdom*, techniques that may not amount to torture by themselves may amount to torture when combined, which is often the case.

#### How does torture affect people?

According to Physicians for Human Rights, Survivors of torture often suffer from a combination of physical and psychological effects. Physical effects may include scars, broken bones, muscle swelling, stiffness or atrophy, chronic pain, headaches, deafness, blindness and loss of teeth. Victims often suffer from psychological symptoms such as lack of sleep, nightmares, problems with concentration, anxiety, depression, irritability, adjustment disorders, impotence, and feelings of powerlessness, shame and guilt.

#### Does Torture work?

No! People often justify the use of torture, despite the legal and moral implications, by claiming that it is the most efficient method of collecting information. The 1992 U.S. Army Interrogation Field Manual 34-52 states: Experience indicates that the use of prohibited techniques is not necessary to gain the cooperation of interrogation sources. Use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say whatever he thinks the interrogator wants to hear.

Most expert interrogators, including the FBI, agree with this conclusion for several reasons. First, torture is not necessary. If someone has information, they are just as likely, if not more so, to disclose the information after non-abusive interrogation tactics. Second, many who are interrogated do not have information to give. Third, whether or not a person has information, he or she will likely confess to anything to stop torture; thus the information obtained is never reliable.

#### What techniques have been used in the war on terror?

Since January 2002, the Bush Administration has justified the maltreatment of prisoners of the war on terror because the detainees are unlawful enemy combatants not guaranteed the rights dictated in the Geneva Conventions or U.S. law. In response to the CIAs and FBI's concerns about its interrogation techniques, the Attorney General's Office of Legal Counsel, in the infamous Yoo/Bybee memo, concluded that physical pain constituting torture "must be equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death." Anything below this threshold merely constitutes cruel, inhuman or degrading kind of treatment, which, although prohibited under the Convention as well, does not constitute a punishable offense according to the memo. Soon thereafter, military personnel began to seek approval for harsher interrogation techniques.

Reports by the United Nations Special Rapporteurs on Guantanamo Bay, the International Committee of the Red Cross, and U.S. military investigators found the following torture techniques have been used:

#### Abuses at Guantanamo Bay:

solitary confinement for periods exceeding a year  
sleep deprivation for days, weeks or months

exposure to prolonged temperature extremes  
beatings  
threats of transfer to a foreign country, for torture  
torture in foreign countries or at U.S. military bases  
abroad before transfer to Guantanamo  
sexual harassment and rape or threats of rape  
deprivation of medical treatment for serious conditions, or treatment granted only for cooperating  
short-shackling, where wrists and ankles are  
bound together and to the floor for hours or days

#### **Abuses at Bagram airbase & other facilities in Afghanistan:**

sleep deprivation for weeks  
shackling detainees while standing  
forced nudity  
sexual taunting by women soldiers  
forcing detainees to lie on frozen ground  
beatings.

#### **Abuses at Abu Ghraib:**

acts of sexual assault and degradation, such as  
forced nudity and forced sexual acts  
the use of dogs to frighten detainees, sometimes to  
a point where detainees urinated or defecated  
breaking chemical lights and pouring the phosphoric liquid on detainees  
pouring cold water on naked detainees  
beating detainees with a broom handle and a chair  
head blows, significant enough to render detainees  
unconscious.

#### **What new policies has the u.s enacted since 9-11?**

In June 2006, the United States Supreme Court ruled in *Hamdan v. Rumsfeld* that all detainees held by the United States in Guantanamo Bay are protected by Common Article 3 of the Geneva Conventions. Under the U.S. War Crimes Act of 1996, violations of Common Article 3 constitute felonies. In order to protect military officials who commit questionable acts, the Bush Administration pushed for the passing of law that would reduce the scope of Article 3.

The Military Commissions Act (MCA), ratified on October 17, 2006, redefines the terms of Common Article 3. The Act adopts the narrow definition for cruel, inhuman or degrading treatment or punishment used by the Administration in 2002. In doing so, the MCA expands the types of abuses military personnel and agents can use in interrogations and limits the ability to hold those officials accountable. It is difficult to comprehend, then, what President Bush has in mind when he says, as he often does, that we don't do torture.

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