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<https://www.hrw.org/news/2005/10/06/abuse-systematic-and-chronic>

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For many people, both in the United States and abroad, there isn't a more egregious scandal involving the United States than the photographed abuses that took place at Abu Ghraib prison in Iraq.

One might hope that the Abu Ghraib scandal is now coming to a close. The last of the photographed soldiers to be put on trial, the hapless Pvt. Lynndie England, was convicted last week and sentenced to three years in prison. NBC's Dateline had an exclusive interview with England before her sentencing; she blamed her superior officers and made a few weak excuses for her own conduct. Now she'll go off to prison. Bush administration officials, for their part, will probably be glad to trumpet England's conviction and then move on.

And that is something we can agree on. We should move on. It's time to move beyond Lynndie England and start thinking about the mounting evidence that detainee abuse was a systematic and chronic problem throughout Iraq and Afghanistan, not just a problem with a few rotten apples. It is becoming increasingly clear that what took place at Abu Ghraib in late 2003 is but one instance of a much larger problem of detainee abuse, a problem rooted in policies promulgated by the top ranks of the administration. It is also becoming clear that the current focus on low-level soldiers as scapegoats is part of an effort to bury the problem. The photographed abuses at Abu Ghraib, while originally a lightning bolt on detainee abuse issues, were a distraction from these larger concerns.

### Systematic And Widespread

The reality which was eclipsed by the particular story of Lynndie England and her comrades at Abu Ghraib is that abuse has been systematic and widespread. Human Rights Watch and other groups have compiled hundreds upon hundreds of allegations of abuse, including serious cases that go well beyond the infamous humiliations at Abu Ghraib.

There are, for example, credible, consistent and numerous allegations about abuse in Afghanistan in late 2001 and 2002, before the Iraq war. Investigations by both the military and Human Rights Watch have found that detainees at the Kandahar and Bagram airbases were regularly beaten, deprived of sleep, food and water, and subjected to extreme cold. Similar allegations have surfaced at bases around Iraq, for instance, at Camp Bucca, Whitehorse, Mercury, Volturno, Tiger, as well as at Abu Ghraib.

Army and Navy investigators have opened hundreds of criminal investigations into abuse, including cases of sexual abuse, electroshock torture and homicides. According to the military's own count, 86 detainees have died while in the custody of U.S. personnel, and military investigators have determined that at least 26 of these deaths are outright homicides.

It is now abundantly clear that abuse has been part of a chronic problem. Soldiers themselves are starting to come forward to confirm that prisoner abuse was routine. My colleagues and I at Human Rights Watch have interviewed several soldiers and interrogators, including some who witnessed and even participated in abuse. Just as the Lynndie England trial was coming to a close, Capt. Ian Fishback, one of the soldiers we'd been talking to, came forward about the abuse, meeting with members of Congress and the press and talking about abuses he witnessed and the leadership failures that led to them. Fishback's story is consistent with those of other soldiers we've interviewed.

When we ask soldiers what they think contributed to the pattern of abuse, their response is unequivocal: lack of guidance and accountability. Lower-level soldiers, from combat troops to military police who guard detainees, were not given clear guidance from their superior officers about the standards of treatment to apply to detainees. Many thought that detainees were not protected by the Geneva Conventions, and could therefore be mistreated, because of statements by the Bush administration in 2002 to the effect that Al Qaeda and Taliban prisoners were not protected. Some troops carried that thought to Iraq in 2003.

Capt. Fishback described to us how the president's statement about Geneva protections effected the environment: The president makes that decision, and decides that were not going to cover them by the Geneva Conventions. . . then that lack of standard migrates throughout the Army. It filters throughout the Army, so that now the standard, this convoluted, You'll know what's right when you see it,

filters through the whole Army. Fishback summed up the leadership failure by saying: We were confused.

## Illegal Orders

But then there's the issue of what was ordered. There are serious questions about what techniques the administration authorized interrogators to use. Some of the so-called stress techniques, which were approved by the administration for use during some interrogations, were flatly illegal under existing military and federal criminal law, and most of the techniques violated the Geneva Conventions and the Convention Against Torture. It is now clear that the authorization of these abusive techniques opened the door to additional abuse.

We also now know that much of the more wanton abuses—for instance, troops beating up detainees on their own initiative—went uninvestigated and unpunished for a long time. For instance, there were several cases of homicide in Afghanistan that Human Rights Watch investigated in 2002 and 2003 that were not robustly investigated until we pressed the administration to act and newspapers published stories about the crimes. And much of the abuse in Iraq went unpunished for months. Simply put, before the Abu Ghraib scandal broke, there was a widespread culture of impunity in the ranks, which likely encouraged further abuse.

And even today, the military and CIA are not robustly investigating or punishing personnel alleged to have committed abuse. Of the hundreds of cases in which military criminal investigations have established that abuse took place, the majority are sent to non-judicial boards, which can only hand out administrative punishments like reprimands and pay reductions, and cannot order jail time. Of the cases that do go to courts martial, most result in jail time of less than a year—even in serious cases, like those involving the death of a detainee. No charges have been filed yet against CIA personnel, except for one CIA contractor charged with assault for his role in the death of a detainee in Afghanistan, although several other cases have been referred from the CIA and Defense Department to the Department of Justice. And almost no investigations so far have focused on officers or civilian Pentagon officials.

## Up The Chain

So, what is to be done? The Senate has taken a promising step forward. This week, Sens. John McCain and Lindsey Graham, with Sen. John Warner's blessing, introduced amendments to the Defense authorization bill that would tighten up military rules on prisoner detention and interrogation, and prohibit all cruel, inhumane, or degrading treatment of detainees. The measure passed 90-9.

But the White House opposes the amendments, saying they unnecessarily limit the president's commander-in-chief authority, and will work against them when the bill goes into conference with the House of Representatives. President Bush has threatened to veto the legislation and block the entire Defense appropriations bill, just to kill the amendments, which do nothing more than clarify and affirm existing international and domestic standards. This would be an extraordinary and audacious step—the president's first veto in office—all because Congress is trying to limit and prevent the abuse of detainees.

Whatever happens, the next step is for the Senate to press the administration to appoint a special prosecutor to conduct a larger investigation of abuses abroad and the failures of military and civilian leadership. (The military justice system, by its own rules, doesn't have the capacity to conduct a large-scale investigation, and the Department of Justice can't do the job since the attorney general, Alberto Gonzales, may be implicated in some of the civilian decisions that led to abuse.) Under the current circumstances, that may seem like a bridge too far, but new revelations of abuse are coming out almost every week. More soldiers are coming forward, and more ex-detainees are telling their stories.

It is in the United States' national interest to pre-empt the growing scandal by identifying and unambiguously repudiating the policy decisions that led to the abuse, and punishing those responsible. Pvt. Lynndie England has been held to account; now it is time to focus on Pentagon and CIA officials who authorized or condoned abuse, and the majors, colonels and generals who let it happen on their watch.

*John Sifton is the researcher on terrorism and counter-terrorism at Human Rights Watch.*

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