

## No More Torture

*Torture - the intentional infliction of severe mental or physical pain or suffering - is a violation of the most basic of all human rights.*

**Robert Alan**

*Open your newspaper - any day of the week - and you will find a report from somewhere in the world of someone being imprisoned, tortured or executed because his opinions or religion are unacceptable to his government.*

**Peter Benenson**, founder of Amnesty International

There is nothing new about torture. It has always occurred either directly or by proxy, but the unthinkable becomes possible during times of crisis or fear. On April 28 2004, a CBS television revealed the nature and scale of abuse being inflicted upon Iraqi prisoners. The more notorious photographs showed a prisoner standing on a box with his head covered and wires attached to his fingers, and another showed a female soldier, Lynndie (Lindy) England, holding a leash tied to the neck of a naked man on the floor.<sup>1</sup> Recently some members of the American Psychological Association attempted to justify the practice of torture and fought against any moves to impose restrictions on the treatment of prisoners. In contrast, the American Medical Association and the American Psychiatric Association have barred their members from participating in interrogations.<sup>2</sup>

According to Professor George Williams<sup>3</sup>, the policies pursued by the Bush Administration mean that, 'We're now in a position where the use of torture is more acceptable than it was before 9/11.'<sup>4</sup>

The Bush Administration overrode morality and made methods of torture 'common'. To give itself the 'flexibility' to use methods defined as torture it covertly redefined torture as 'extreme acts' which resulted in 'death or organ failure'.<sup>5</sup>

<sup>1</sup> Philippe Sands, *Stress, hooding, noise, nudity, dogs*, [The Guardian](#), April 19 2008

<sup>2</sup> Amy Goodman, *A Torture Debate among Healers*, [TruthDig.com](#) April 10, 2008.

<sup>3</sup> Professor George Williams is a leading Australian expert in public law, particularly human rights and constitutional law. He is currently the Anthony Mason Professor of Law at the University of New South Wales and the Director of the Gilbert and Tobin Centre of Public Law. He has also appeared in many Supreme Court (NSW), Federal Court and High Court matters raising issues of public law, human rights law and electoral law. Professor Williams is the author of numerous books, publications, journal articles and research papers covering various aspects of public law including A Charter of Rights for Australia, and What Price Security? Taking Stock of Australia's Anti-Terror Laws. In 2007 he chaired a NSW Government inquiry into Options for a New National Industrial Relations System and was a member of the High Level Advisory Group on Federal-State Relations to Kevin Rudd and Bob McMullan. In 2005 he chaired Victorian Human Rights Consultation Committee that led to the enactment of the Victorian Charter of Human Rights and Responsibilities.

<sup>4</sup> Cynthia Banham, *At last, we take a stand against the dark side*, *Sydney Morning Herald*, March 10, 2008.

<sup>5</sup> Cynthia Banham, *At last, we take a stand against the dark side*, *Sydney Morning Herald*, March 10, 2008

*The civilized have created the wretched, quite coldly and deliberately, and do not intend to change the status quo; are responsible for their slaughter and enslavement; rain down bombs on defenseless children whenever and wherever they decide that their 'vital interests' are menaced, and think nothing of torturing a man to death: these people are not to be taken seriously when they speak of the 'sanctity' of human life, or the 'conscience' of the civilized world.*

**James Baldwin**

*The degree of civilization in a society can be judged by entering its prisons.*

**Fyodor Dostoyevsky**

## **A different world**

The September 11 2001 attacks in New York, Washington and Philadelphia and the terrorist attacks in London, Madrid and Bali were followed by policies designed to change the balance between human rights and security, effectively changing 'the rules of the game'. Breaches of international rule of law occasioned by terrorism and its targeting of civilians have been used by states to justify further violations and further disregard for the international rule of law.<sup>6</sup>

Philippe Sands suggests that disregard of rules by key states in dealing with new realities of the 21st century are a greater challenge to international rule of law than international terrorism. Can torture ever be justified to obtain information in face of a terrorist attack? Or to detain people indefinitely without rights? May the rule of law be subordinated to concerns such as national security?<sup>7</sup>

Though prohibited by international law and recognised as inhumane, torture continues to be widespread [practised in 132 countries involving security forces, police, or other state authorities] and justified in many forms that individuals, groups and governments continue to justify.<sup>8 9</sup> Some methods have been given their own names.<sup>10 11</sup>

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<sup>6</sup> Philippe Sands, *Above all, law*, [http://commentisfree.guardian.co.uk/philippe\\_sands/2007/12/above\\_all\\_law.html](http://commentisfree.guardian.co.uk/philippe_sands/2007/12/above_all_law.html) December 14, 2007.

<sup>7</sup> Philippe Sands, *Above all, law*, [http://commentisfree.guardian.co.uk/philippe\\_sands/2007/12/above\\_all\\_law.html](http://commentisfree.guardian.co.uk/philippe_sands/2007/12/above_all_law.html) December 14, 2007

<sup>8</sup> Go to **Appendix 1**

<sup>9</sup> [Tom Head](#), *American Torture Techniques*, **About.com**.

<sup>10</sup> Go to **Appendix 2**.

<sup>11</sup> **Amnesty International Report 2000**

*No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.*

***United Nations Convention against Torture***

In 1975 the United Nations (UN) General Assembly unanimously approved the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment where member nations agreed to eliminate torture.<sup>12</sup> It was agreed that exceptional events, situations, or factors would not provide an exception to the prohibition against torture.<sup>13</sup>

**Women and torture**

As well as physical torture, there are also psychological aspects and consequences particularly when a person has become a party to the torture of family or friends: receives false information about the torture, death, or betrayal of loved ones; experiences a mock execution; is told that he or she is forgotten or that no one cares for them; is told that, if they survive, no one will believe them; appears to be an active participant in torture by being forced to choose which family member, friend or fellow prisoner should be tortured or put to death; or is made to use torture devices on another or oneself.

According to Amnesty International the ‘hidden scandal’ is the torture of children which receives very little attention. The torture of women has also been denied or discounted, not to mention the risks and costs – sometimes fatal – of seeking asylum or speaking about their torture. However, there is growing recognition of how women are targeted for torture. Rape and other forms of sexual violence were ignored (as rare events), discounted (as of little importance or consequence), or dismissed (as false memories) and the rape of prisoners of war, people in police custody or jail, abductions or ‘disappearances’ were often dismissed. As refugees, women [and children] may face special risks and hardships such as lack of food, clothing, shelter or other resources as well as lack of familiarity with the country's language, customs, and laws. Such circumstances may leave them vulnerable to sexual demands (in exchange for survival) and to attack.<sup>14</sup>

**The Rule of law**

The rules of international law were abandoned by the Bush Administration when it waged an illegal war against Iraq; when it created legal black holes in Guantánamo

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<sup>12</sup> ‘No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment... Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment’ [art. 3].

<sup>13</sup> [Kenneth S. Pope](#), *Resources for Torture Survivors, Refugees, Asylum-Seekers, and People Affected by War*

<sup>14</sup> [Kenneth S. Pope](#), *Resources for Torture Survivors, Refugees, Asylum-Seekers, and People Affected by War*

and elsewhere; when it denied detainees the rights under Article Three of the Geneva conventions; when it ignored the constraints of the 1984 convention on the prohibition of torture; and, when it pursued a policy of extraordinary rendition beyond the norms or procedures of international law.<sup>15</sup>

Such actions have spurred other states to flout international law to further curtail human rights and outlaw political dissent.<sup>16</sup>

### **Effectiveness of torture**

The effectiveness of torture in eliciting information is much debated. The implied argument is that the ends, i.e. good information, saving lives, etc. justifies the means.

One case that is often cited is that of the ‘ticking bomb’. This scenario has been used by supporters of torture and even some opponents if they believe it will save lives. Careful analysis of the effectiveness of torture allows for the possibility of its success in rare instances, but in most cases security agencies have not provided adequate documentation of success. More importantly, the historical accounts, psychological studies, and case analyses of the failures and problems with coercive interrogation are legion.<sup>17</sup> CIA and FBI reports also point out the problems of inaccurate recollection and false confessions. The use of torture in Algiers, Northern Ireland and Israel did not and have not produced desired political results.

There is also evidence that torture methods have created terrorists<sup>18</sup> thus putting at risk service personnel, who are protected by Geneva Conventions against mistreatment in the event of their capture. There is no evidence to justify torture on the basis of its effectiveness in eliciting information. The evidence actually suggests that a person under torture will offer any information that is sought by the perpetrator in order to have the torture cease. It is useful to remember that the perpetrator is also demeaned by failing to value the human dignity and sanctity of the person – not to mention usurping the moral authority of the state.<sup>19</sup>

‘Do whatever it takes,’ basically means that the inchoate fears and primal emotions of the people should override morality and law. This widely shared attitude is like a dormant virus: It may appear to be harmless now, but it could come to life at any time.<sup>20</sup>

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<sup>15</sup> Philippe Sands, *Above all, law*, [http://commentisfree.guardian.co.uk/philippe\\_sands/2007/12/above\\_all\\_law.html](http://commentisfree.guardian.co.uk/philippe_sands/2007/12/above_all_law.html) December 14, 2007.

<sup>16</sup> Philippe Sands, *Above all, law*, [http://commentisfree.guardian.co.uk/philippe\\_sands/2007/12/above\\_all\\_law.html](http://commentisfree.guardian.co.uk/philippe_sands/2007/12/above_all_law.html) December 14, 2007

<sup>17</sup> Philip N.S. Rumney, *Is Coercive Interrogation of Terrorist Suspects Effective? A Response to Bagaric and Clarke*, University of San Francisco of Law Review 40(2006):479-513, 512.

<sup>18</sup> Noam Chomsky, *American Amnesia: We Forget Our Atrocities Almost As Soon as We Commit Them*, [Tomdispatch.com](http://Tomdispatch.com) May 20, 2009

<sup>19</sup> Cynthia Banham, *At last, we take a stand against the dark side*, Sydney Morning Herald, March 10, 2008.

<sup>20</sup> Gary Kamiya, *America’s Necessary Dark Night of the Soul*, [Salon.com](http://Salon.com) May 1, 2009

However, we must ask: who calls to account those countries that tender or outsource<sup>21</sup> for torture? Those interrogators abroad also practice on their own citizens, e.g., Egypt. Instruments of torture are made in factories but little information exists as to where these exist. Torture is tendered out or outsourced to obliging nations that offer these services without transparency which allows us to believe that we are more civilised. We can claim ignorance of those cells where screams pierce the darkness. It works for all sides in this conspiracy and mutuality in evil.<sup>22</sup> During the apartheid era in South Africa, there were willing black operators and the transatlantic slave trade depended on black suppliers.

Powerful people in Washington think it is a crazy-leftist-fringe position to think the intellectual authors of a torture regime should be investigated and prosecuted. Recent polling suggests at least 50% of the American population favours an independent investigation or criminal prosecution of members of the Bush administration for torture. Half is not fringe. Maybe they say this because they're scared, and well they should be.<sup>23</sup>

### **Conclusion**

The absolute injunction against torture remains as unjustifiable means to whatever the end, including avoiding further terror attacks. If we fail to uphold that principle 'precious all is lost and there can be nothing left for any of us to live and die for'.<sup>24</sup>

**Suggested action?** Urge the Australian government:

- to support investigations into allegations of torture, by the Bush or any other administration;
- to call for wider ratification of Convention Against Torture<sup>25</sup>; and
- to call for a report to be made to the Human Rights Council on the observance of the Convention Against Torture.

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<sup>21</sup> Chris Hedges, *Outsourcing Torture*, [Truthdig.com](http://Truthdig.com) October 15, 2007

<sup>22</sup> An agreement (i.e. conspiracy) to inflict physical and mental pain on prisoners, as reported by ABC News in April 2008, came out of meetings held some six years ago with George W. Bush's approval. Various methods of brutality were decided by Condoleezza Rice, national security adviser, who presided, Vice-President Dick Cheney, Secretary of Defense Donald Rumsfeld, Attorney General John Ashcroft, and Secretary of State Colin Powell. Paul W. Lovinger, and Jeannette Hassberg, *Prosecuting War Crimes is Not 'Partisan' Politics, A Nation of Laws, CounterPunch*, April 30, 2009.

<sup>23</sup> John Cusack, *A War on Terror by Any Other Name*. [Huffington Post](http://Huffington Post) May 19, 2009

<sup>24</sup> Yasmin Alibhai-Brown, *A Depressing Saga of Secrets, Lies and Medieval Horrors*, [The Independent/UK](http://The Independent/UK) February 23, 2009

<sup>25</sup> UN Convention Against Torture <http://www.hrweb.org/legal/cat.html>

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### **Recommended Resources**

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## Appendix 1

***Psychological Torture:*** The number one criterion for American torture is that it must leave no physical marks, and psychological torture certainly qualifies. Whether U.S. officials are threatening to execute a prisoner's family or just falsely claiming that the leader of his terror cell is dead, it's hard to imagine a form of torture that is more effective--or easier to get away with--than a steady diet of misinformation and threats. Tom Head, American Torture Techniques,About.com

***Sensory Deprivation:*** When you're locked up in a cell, it's already remarkably easy to lose track of time. Eliminate all noise and light sources--or, as was done to the Guantanamo prisoners at one point, simply bind, blindfold, and earmuff a prisoner into temporary oblivion--and life becomes a hellish, sanity-destroying experience. Whether prisoners subjected to long-term sensory deprivation can still tell fiction from reality is, of course, another question. Tom Head, American Torture Techniques,About.com

***Starvation and Thirst:*** Maslow's hierarchy of needs identifies basic physical needs as the most fundamental--more fundamental than religion, political ideology, or community. A prisoner who is being given enough (unpleasant) food and water to survive, but only just, can go as long as a week before looking physically thinner--but will soon find that his or her life revolves around the quest for food. Tom Head, American Torture Techniques,About.com

***Sleep Deprivation:*** Studies have shown that missing a night's sleep temporarily drains 10 points from a person's IQ. Consistent sleep deprivation, through harassment, exposure to bright lights, and exposure to loud, jarring music and recordings, can drastically impair judgment.

***Waterboarding:*** Water torture, one of the oldest and most common forms of torture, came to the United States with the first colonists and has cropped up many times since then. In the latest incarnation, waterboarding, a prisoner is strapped down to a board and then dunked in water until nearly drowned, then brought back, gasping, to the surface. The interrogator repeats the procedure until the desired result is obtained. Tom Head, American Torture Techniques,About.com

***Forced Standing:*** 'I stand for 8-10 hours a day,' Donald Rumsfeld wrote in a 2002 interrogation memo. 'Why is standing limited to four hours?' Rumsfeld would probably feel a little differently about this if he had to stand in place for 8-10 hours, which can cause ankle swelling, bruising, and excruciating pain. Tom Head, American Torture Techniques,About.com

***Palestinian Hanging (aka Palestinian Crucifixion):*** This form of torture, referred to as 'Palestinian hanging' due to its use by the Israeli government against Palestinians,

involves binding the prisoner's hands behind his or her back. After fatigue sets in, the prisoner will inevitably fall forward--putting full body weight on the shoulders, and impairing breathing. If the prisoner is not released, death by crucifixion results. Such was the fate of U.S. prisoner Manadel al-Jamadi in 2003. Tom Head, American Torture Techniques,About.com

***Sweatboxes:*** In this form of torture, sometimes referred to as the 'hot box' or simply as 'the box,' the prisoner is locked up in a small, hot room which, due to lack of ventilation, essentially functions as an oven. When the prisoner cooperates, he or she is finally released. Long used as a form of torture within the United States (most recently against one Alabama activist in 1998), it is particularly effective in the arid Middle East. Tom Head, American Torture Techniques,About.com

***Sexual Abuse and Humiliation:*** Various forms of sexual abuse and humiliation documented in U.S. prisons include forced nudity, forcible smearing of menstrual blood on prisoners' faces, forced lap dances, forced transvestitism, and forced homosexual acts on other prisoners. These abuses and alleged abuses should be considered in light of the fact that most detainees are deeply religious Muslims, and many are married. Tom Head, American Torture Techniques,About.com

## **Appendix 2**

**Bell** (campana): a method of torture leaving no external marks in which a person's head is placed within a pail or other metal container which is then struck repeatedly, causing sudden loud sounds and reverberations

**Buzzer** (chicharra): a method of torture in which the person is repeatedly shocked through wires or other conducting objects that are attached to parts of the body (e.g., ears, eyes, eyelids, genitals, gums, soles of feet)

**Carry On**: a method of communal torture in which a group of guards use batons, pick handles, and other weapons to beat prisoners

**Chepuwa**: a method of torture in which the person's thighs are tightly bound with bamboo or similar materials

**Alanga**: a method of torture in which the soles of the feet are repeatedly struck with either hard (e.g., canes) or pliable (e.g., wires) objects

**Helicopter trip**: a method of torture in which the person is hung upright or upside-down from one of the large blades of a ceiling fan and is struck repeatedly as the blade revolves

**Necklacing**: a method of torture in which a tire, filled with gasoline or similar flammable liquid, is placed around the person's neck and set afire; also, a method of psychological torture in which a landmine, grenade, or similar explosive is tied around a person's neck in a way that it is difficult or impossible to remove without detonation

**Torment of the sticks** (Supplice de baguettes): a method of torture in which two sticks are placed through a wire encircling a person's head and are slowly turned, tightening the wire

**Telephone** (telefono): a method of torture in which both ears are clapped or otherwise struck

**Water torture**: methods of torture that can include dunking (holding a person underwater for long periods), holding the person upside down and pouring water over the face to achieve partial or complete drowning, and forcing large amounts of water (sometimes by placing a funnel down the throat) into the mouth and stomach