

Terrorizing the Terrorists: Reconstructing U.S. Policy on the Use of Torture in the Global War on Terror

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Abstract

This paper examines the five major arguments surrounding extraordinary rendition and the use of torture on enemy combatants in the Global War on Terror. After carefully examining the main arguments for and against the use of torture, this paper will show how the consequences and repercussions of using torture are far greater than the gains it produces. With the information presented in this paper, a policy recommendation will be proposed that aims to repair the U.S.'s international image, maintain the status quo of national security in regards to terrorism, and establish a framework for how torture should be used when dealing with future cases that jeopardize national security.

Key Words: Torture, extraordinary rendition, Global War on Terror, CIA, black sites, al-Qaeda, Taliban, Guantanamo Bay, enhanced interrogation, terrorism

Introduction

Following the terrorist attacks in the United States on September 11, 2001, the Bush administration began drafting legal memos that authorized the use of enhanced interrogation techniques and extraordinary rendition to secret prisons around the world operated by the Central Intelligence Agency (CIA), also known as "black sites." It is important to note that these types of operations were previously condemned as war crimes by the United States (American Civil Liberties Union, n.d.). While some argue that the use of torture is necessary to gather intelligence to prevent future attacks against the U.S. and its allies, others claim the use of torture produces unreliable information and ultimately tarnishes the U.S.'s international image while potentially creating blowback on a variety of levels. It is important to take an extensive look at both arguments and recommend a policy that will strengthen U.S. national security, repair its damaged moral standing in the world, and prevent the unregulated use of torture on alleged enemies of the state.

After a decade of using questionable imprisonment and torture techniques in the Global War on Terror (GWOT), the U.S. must find a way to correct its mistakes and formulate a policy that will return the nation to its foundation of liberty and justice for all. In order to effectively correct these wrongdoings, it is important to understand how the events of 9/11 were used by the Bush administration to transform policy on torture and extraordinary rendition. Up until the attacks on 9/11 the U.S. policy on torture ran virtually parallel to that of the United Nations. According to the Office of the United Nations High Commissioner for Human Rights (2007), in Article 1 of the United Nations Convention against Torture (UNCAT), torture can be defined as:

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Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

The United States ratified the treaty in 1994 and agreed to criminalize overseas torture. Additionally, the U.S. agreed to protect all persons from acts of cruel, inhumane, or degrading treatment or punishment (CID) (Office of the United Nations High Commissioner for Human Rights, 2007). According to Amnesty International (n.d.), CID is considered, “any harsh or neglectful treatment that could damage a detainee’s physical or mental health or any punishment intended to cause physical or mental pain or suffering, or to humiliate or degrade the person being punished.”

The UN intentionally wrote the definition of torture to be broad, encompassing a multitude of actions. The reason for a general definition is that it covers a virtually endless variety of torture methods, theoretically minimizing the opportunity for a government to circumvent the treaty. Despite the broadness of the treaty, the U.S. found a way to justify the use of torture following the attacks of 9/11 using technicalities in the U.S. Constitution.

While both torture and CID are illegal under international law, as stated in the UNCAT treaty, the U.S. was able to use technicalities to circumvent the law through extraordinary rendition. Before the U.S. Senate ratified UNCAT, it added the stipulation that CID is only forbidden under the U.S. Constitution, and therefore does not apply outside U.S. territory, and is therefore nullified. By ignoring CID laws, the U.S. opened the door to the use of enhanced interrogation techniques in an attempt to gain intelligence on al-Qaeda, theoretically putting the U.S. in a proactive position to prevent future terrorist attacks.

Changes as a Result of 9/11

Immediately following the 9/11 attacks, the Bush administration made the decision to invade Afghanistan with the help of coalition forces in an attempt to dismantle the Taliban and al-Qaeda networks based in the region. While developing a plan to bring down the network responsible for 9/11, the Bush administration recognized that GWOT enemy combatants taken into custody would create an inevitable dilemma in regards to where these prisoners would be held, and the conditions of their treatment. It would need to be addressed if the combatants should be considered prisoners of war (GPWs), or if they fall outside the Geneva Convention’s Article 4 of the 1949 Geneva Convention (III) Relative to the Treatment of Prisoners of War.

After careful deliberation, the U.S. Department of Justice (DOJ) concluded that the Taliban militia cannot meet the requirements of Article 4(A) (2), because it fails to satisfy at least three of the four conditions of lawful combat articulated in Article 1 of the Annex to the 1907 Hague Convention (IV) Respecting the Laws and Customs of War on Land (Hague Convention), which are expressly incorporated into Article 4(A) (2) (Department of Justice, 2002). Consideration for GPW status is only given if all of the following characteristics are met, as described in Geneva Convention’s Article 4(A) (2): members of a militia or a volunteer corps must be commanded by a person responsible for his subordinates, having a fixed distinctive sign

recognizable at a distance, carrying arms openly, and conducting their operations in accordance with the laws and customs of war (International Committee of the Red Cross, 2005).

The U.S. government argues that the Taliban and al-Qaeda do not fall under the rules of the Geneva Convention, as they violate three of the previous listed criteria required to be considered. To begin, the militants in both organizations do not wear a distinctive symbol or uniform required by Article 4(A) (2). Secondly, the combatants often move throughout the battlefield with their weapons concealed. Finally, the Taliban conduct their operations based on their rigid interpretation of the Koran and Sharia law, not the laws and customs of war outlined in the Treaty. By exploiting these technicalities, the Bush administration justified the use of extraordinary rendition and enhanced interrogation methods to obtain intelligence from combatants in GWOT.

To date, the argument over whether the U.S. should use torture to extract intelligence is controversial and remains polarized. Those who support the torture of detainees argue that these enhanced interrogation techniques have helped keep the United States safer. The opposition argues that the U.S.'s use of torture to acquire intelligence is unreliable, ultimately tarnishes the U.S.'s international image, and fuels anti-American propaganda which leads to blowback against the U.S. Both sides offer valid points that are worthy of further examination. By understanding the advantages and disadvantages of each side, a recommended change in policy towards the use of torture in the Global War on Terror can be offered.

When evaluating the use of torture, it is important to weigh cost versus benefit. Whether one feels that torture is immoral or justified is irrelevant to some extent. By removing the emotional context of the topic from the argument and examining the facts that surround the use of torture, an effective policy recommendation can then be created. With this said, morality must not be pushed completely out of the picture, but rather examined from a third person perspective on how it affects the U.S.'s image domestically and abroad, and the potential consequences that come with it.

There are five central arguments that revolve around the use torture as a means to gather intelligence that need to be addressed before an effective policy recommendation can be made. First, many argue that threats to the United States can be time sensitive and will not be foiled by conventional intelligence gathering means. Torture affords the U.S. the ability to extract information quickly, bypassing much of the bureaucratic congestion that often slows the intelligence gathering process. By using torture to gather intelligence, information can be extracted in a matter of days, rather than weeks, months, or even years to prevent a time-sensitive attack, also referred to as a Ticking Time Bomb (TTB) scenario. Secondly, torture can be a means for a government to gain legitimacy on both domestic and international levels. By dehumanizing and labeling enemies of the United States as evil, the government is able to harness support for the use of torture, which, in turn, strengthens the government's legitimacy. Thirdly, torture can be used as an effective deterrent against potential terrorist recruits. Knowing that there is a good probability that an individual will be subject to torture if captured may actively deter terrorist sympathizers from aligning themselves with terrorist organizations and activities. Fourthly, it is argued that loopholes in UNCAT make "enhanced interrogation techniques" a legitimate tool to gathering intelligence, and therefore can be utilized at an intelligence agency's disposal. The U.S. government explains that since military combatants do not fall under UNCAT, they are not afforded protection under the Geneva Convention, and are therefore legally open to harsh interrogations. Finally, using torture as a means to gather intelligence can save time, money, and human resources. The overhead in capturing an

individual and questioning them using harsh interrogation techniques is much cheaper than observing that person for an extended period of time using other methods of human intelligence gathering.

The Ticking Time Bomb Scenario

The most widely used justification for the use of torture is the TTB scenario. A TTB scenario is one in which a terrorist in custody holds critical information on a timed bomb or nuclear attack that will soon detonate resulting in catastrophic loss of life. Most people who stand behind using torture to prevent a TTB recognize the act as deplorable, but a necessary evil to prevent a large-scale attack. Torture can be justified as an extreme form of interrogation that is necessary to stop an imminent threat. If torturing an individual can stop a nuclear blast or another 9/11, it should be used without hesitation. Hannah (2006) explains, "This ethical framework then allows for weighing the costs and benefits of extreme methods of gaining information necessary to locate the bomb and prevent its explosion." Before 9/11, these scenarios were examined on a hypothetical level. Following 9/11, while still under hypothetical context, using torture to prevent a TTB has become easier to defend. Even though many officials, military and civilian, see torture as unethical and immoral, the events of 9/11 opened the doors for justifying the use of torture to ensure national security.

The controversy that lies within the TTB justification of using torture is the ambiguity of what exactly qualifies as a TTB, and what regulations are in place to determine who gets tortured. The use of torture to stop an imminent threat shifted after 9/11 to cover less than catastrophic events. Initially, the use of torture was to be a tool to help mitigate the detonation of a nuclear attack or an attack similar in size to 9/11, but the intended purpose quickly shifted to prevent threats that held less of an impact. Additionally, individuals were misidentified, as they did not hold any valuable intelligence regarding TTBs or any other threats, and were extradited to black sites around the world and tortured.

The justification of torture in a TTB scenario is better explained by examining the theory of consequentialism. Consequentialism is the idea that morality is based off the quantity of good that is produced out of a questionably bad action. The use of torture to prevent an even greater evil is justified through the theories of utilitarianism and act consequentialism. Sinnott-Armstrong (2009) elaborates, "Act consequentialism is the claim that an act is morally right if and only if that act maximizes the good, that is, if and only if the total amount of good for all minus the total amount of bad for all is greater than this net amount for any incompatible act available to the agent on that occasion." According to this theory, if a terrorist attack has potential to take a large number of lives, then the use of torture on a small scale to prevent mass destruction is justified and should be used.

While there are many who stand by the TTB theory to justify the use of torture, there are just as many, if not more, who argue against it. Critics of the TTB scenario as a justification for torture point out that this scenario is solely hypothetical, and there has never been TTB scenario outside of the hypothetical realm. Stephen Griffin (2006) explains that TTB is used to gain moral and policy support for its advocates. In reality, there has yet to be an actual TTB threat to the U.S. outside of the hypothetical realm. Even the attacks of 9/11 could have been prevented through conventional intelligence gather methods, and should not be considered a TTB worthy event. The truth behind the attack is that it was not the time sensitivity of the situation that prevented the intelligence community from stopping it, but rather a breakdown in

communications between intelligence organizations. Classifying the 9/11 attacks as a TTB scenario to aggregate support for torture is misleading and false.

Even if a TTB scenario was to cross over from the hypothetical realm and into reality, there is still the issue of determining which individual holds valuable information. Too often, we have seen innocent individuals captured and subjected to torture without proper justification. In 2002, the Bush administration identified Abu Zubaydah as a senior lieutenant of al-Qaeda. Abu Zubaydah was captured and transported to the U.S. Naval Base in Guantanamo Bay, Cuba, where the FBI and the CIA used torture to gain intelligence from him. At the black site, Zubaydah was beaten, left confined in a tiny, pitch-dark box for extended periods of time, and waterboarded over 80 times. After years of harsh treatment it was determined, that Zubaydah did not hold information related to a TTB attack, nor did he hold any valuable information regarding al-Qaeda. Joseph Margulies (2012), a U.S. lawyer fighting to give prisoners at Guantano Bay judicial rights, states, “The U.S. no longer believes he [Zubaydah] was even a member of al-Qaeda, let alone a trusted associate or senior lieutenant of Bin Laden.”

Currently there are 166 prisoners being held at the U.S. Naval Base at Guantanamo Bay, Cuba. Eighty-six of these prisoners have been cleared for release, forty-six are being held without enough evidence to be charged with a crime, but not deemed safe for release, and only six detainees are facing formal charges. The imprisonment and torture of these men, justified or not, has been counterproductive in the war on terror. Black sites, where torture is used to extract intelligence, act as the driving mechanism in jihadist propaganda. Postel (2013) states, “The constant refrain about Guantanamo Bay may be inspiring jihadist action. Anwar al-Awlaki issued a lecture discussing the plight of prisoners in Guantanamo Bay before his death by drone strike in 2011. Awlaki’s lectures still play an important role in recruiting impressionable individuals to jihad.” Additionally, al-Qaeda’s English recruitment magazine, *Inspire*, features the prison at Guantanamo Bay in many of its issues to gather support for jihad, recruit fighters, and justify attacks on U.S. targets.

The false imprisonment and torture of Zubaydah and many others like him in places like Guantanamo Bay, highlights the deceptiveness of using TTB as justification of the use of torture and consequential repercussions that come with it. Using the TTB scenario to justify torture has allowed the U.S. government to mislead the public and torture individuals without sound evidence that they are linked to terrorist networks or TTBs. The fact that there has never been a case in which a catastrophic TTB scenario has been averted through the use of torture, is testament to the fact that this theory remains hypothetical, and needs to be treated as such when forming policy on the use of torture.

Torture and Legitimacy

Torture can also play a role in strengthening a government’s legitimacy amongst its citizens and the international community. Ruth Blakeley explores the concept of legitimacy surrounding torture and the TTB theory in her article, *Why Torture?*, Blakeley explains that torture can often be justified by those in power as a right to their legitimacy. Expanding on this idea, Blakely points out that many leaders agree that torture is morally unjustified. However, these same leaders also see themselves as elitists who are justified in using torture if it helps prevent an attack that would otherwise compromise their power/legitimacy. In addition, it is much easier for a government to gain public support for the use of torture if they can effectively dehumanize the opposition and label it as the evil side. Once a leader is able to dehumanize the

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enemy and clearly marginalize them into the category of wrong, while placing themselves on the side of right, it is much easier to justify the use of torture as a deterrent and means to gain intelligence. Blakely (2007) states, “These images of (potential) terrorists as ticking time bombs posing an imminent threat to freedom lend themselves to the appeals for legitimacy of those fighting the ‘War on Terror.’” She continues to elaborate by pointing out that assigning identity creates the idea that torture is justified and legitimate in its use, because the consequences of not using it could result in a horrific attack by the ‘evil’ enemy.

Under this logic, Blakeley suggests that using torture to gain credible intelligence is irrelevant. It is not the information or the quality of information that is gained through torture that gives a group its power, but rather the ability to convince others that the use of torture is justified as a tool to combat an enemy, thus solidifying their legitimacy. In nondemocratic states, this theory may hold truth and strengthen the legitimacy of the governing power. In the specific case of the United States, however, the use of torture may have the opposite effect. For the United States to initially hold a strong stance against the use of torture, and then change its position on the issue when it is in the U.S.’s best interest is hypocritical, compromises the integrity of its character, and hinders its ability to criticize other nations using similar policies.

The use of torture in the “War on Terror” has diminished the U.S.’s image on both a domestic and international level, sending a message that contradicts the foundations for which the United States stands for. By actively using torture as a means to gather intelligence and handing suspected terrorists over to partner nations for torture, the U.S. creates an image for itself that it is above not only international laws, but also its own domestic laws. Singh (2013) explains, “By engaging in torture and other abuses associated with secret detention and extraordinary rendition, the U.S. government violated domestic and international law, thereby diminishing its moral standing and eroding support for its counterterrorism efforts worldwide as these abuses came to light.”

While the U.S. tries to justify and legitimize its use of torture, it simultaneously works in a counterproductive manner to empower the efforts of the terrorists by drawing support and creating justification for their cause. The blowback that comes from violating international law with torture poses a serious threat to the United States as President Barack Obama (2009) explained in a 2009 speech:

I know some have argued that brutal methods like waterboarding were necessary to keep us safe. I could not disagree more. As Commander-in-Chief, I see the intelligence. I bear the responsibility for keeping this country safe. And I categorically reject the assertion that these are the most effective means of interrogation. What’s more, they undermine the rule of law. They alienate us in the world. They serve as a recruitment tool for terrorists, and increase the will of our enemies to fight us, while decreasing the will of others to work with America. They risk the lives of our troops by making it less likely that others will surrender to them in battle, and more likely that Americans will be mistreated if they are captured. In short, they did not advance our war and counterterrorism efforts -- they undermined them...

Using torture as regular practice in the War on Terror has only strengthened the notion for terrorists around the world that the U.S. is an evil super power that is hypocritical in its foundation of liberty, justice, and freedoms. The process of extraordinary rendition has sent a

clear message to the international community that the U.S. is willing to bend, twist, and manipulate its policy on torture to circumvent domestic and international laws whenever it serves their best interests.

Torture as a Deterrent

In addition to preventing a TTB, gathering intelligence, and strengthening legitimacy, may also act as a deterrent against terrorist sympathizers and supporters. Deterrence theories explain how punishments like torture are justifiable if they prevent and discourage sympathizers and offenders. Many dictators in the past have used torture as a deterrent to suppress opposition groups. Saddam Hussein's police and military in Iraq used torture methods as a deterrent by instilling fear in the Iraqi civilians and preventing any attempt at overthrowing his regime. Governing bodies have used torture for centuries as a means to keep people suppressed and living in fear.

In order to understand how torture can act as a deterrent, the act itself should be examined separately as a form of punishment instead of an intelligence gathering entity. For punishment to work as a deterrent, the consequences of being captured must be greater than the status quo of punishment for similar crimes. In other words, potential terrorists already understand the consequences of their actions if they are captured, therefore the standard of punishment for an offender must be raised so that he/she is then forced to reevaluate the cost-benefit of their actions. Brownlee (2009) states, "Whether that punishment would be less or more severe than, or equal to, that imposed on ordinary offenders depends on empirical considerations. Sometimes greater punishment than that required for ordinary offenders would be in order since disobedients who are serious in their moral conviction may not be deterred by standard punishments."

Essentially, the use of torture should instill a fear much larger than the fear used to recruit by the Taliban or al-Qaeda, and greater than the status quo of traditional punishment. After 9/11, the traditional means of deterrence against a non-traditional enemy had to be reevaluated by the U.S. and coalition forces. In a detailed report outlining the U.S.'s national security strategy following the 9/11 attacks, President George W. Bush (2002) states, "Traditional concepts of deterrence will not work against a terrorist enemy whose avowed tactics are wanton destruction and the targeting of innocents; whose so-called soldiers seek martyrdom in death and whose most potent protection is statelessness. The overlap between states that sponsor terror and those that pursue WMD compels us to action." By emphasizing the idea that these terrorists have no regard for their lives or any human life, the Bush administration is able to aggregate support for, and justify the use of torturing suspects in order to help deter others from joining their cause.

Brownlee points out three arguments against deterrence theories. The first, she explains, is that deterrence theories look at people as brutes, not as rational humans capable of making moral decision without the threat of punishment. By looking at individuals involved in the War on Terror as brutes, according to a deterrence theorist, it is assumed that a constant threat of fear must be applied on a population in order to keep them in compliance with the law. In contrast, if a governing power treats its citizens as responsible individuals capable of following the laws for moral reasons as opposed to coercion through fear tactics, the government is more likely to maintain its legitimacy within its population.

Additionally, deterrence theories are criticized for accepting the punishment of individuals that go beyond the crimes they committed in order to deter others. By passing down

a punishment that is proportionate to the crime, the criminal justice system is able to maintain integrity of its social contract within its governing society. The practice of extraordinary rendition and torture as a means of deterrence and punishment has delegitimized the U.S.'s criminal justice system and tarnished its reputation of liberty and justice for all.

“Finally,” Brownlee (2009) explains, “deterrence theories are criticized for making the parameters for appropriate punishment excessively broad in allowing that whatever punishment is needed to deter people is the justified punishment.” This reasoning holds true in the U.S.'s use of torture in the War on Terror by convincing the public that torture is a necessary evil to protect the masses and deter potential threats. If U.S. foreign policy does not set parameters on the use of torture, it is very likely that the use of torture will become standardized practice and begin to spiral outside of its intended purpose; to protect citizens against large-scale TTB attacks.

Legal Justification

In conjunction with looking at the moral aspects of using torture, it is also important to look at its legal implications as well. Shortly after the 9/11 attacks, a set of three legal memoranda were created to help advise the CIA, the U.S. Department of Defense, and the President on the use of enhanced interrogation techniques. According to James (2009), Assistant Attorney General Jay S. Bybee signed off on the memoranda explaining, “Interrogation practices aren’t legally torture unless they inflict pain resembling that of ‘serious physical injury’ such as organ failure or death.” This definition made legal the use of waterboarding, binding stress positions, coercion through means of sleep deprivation, and both mental and physical torment.

While the memoranda allowed for enhanced interrogation techniques on suspected terrorists in order to ensure that these practices would not be shut down by legalities, the U.S. immediately set up CIA prisons outside of the U.S. referred to as “black sites.” While the attacks of 9/11 helped trigger the proliferation of black sites around the world, it is suspected that the CIA has been using extraordinary rendition to black sites since the 1990s. The American Civil Liberties Union (2005) states, “Beginning in the early 1990s and continuing to this day, the Central Intelligence Agency, together with other U.S. government agencies, has utilized an intelligence-gathering program involving the transfer of foreign nationals suspected of involvement in terrorism to detention and interrogation in countries where -- in the CIA’s view -- federal and international legal safeguards do not apply.”

By detaining suspected terrorists at black sites located outside of U.S. territory, the U.S. is able to operate unrestricted by federal and international standards. It is reported that the U.S. has worked with over 50 different countries to extradite suspected terrorists, and outsource the process of intelligence gathering through torture. According to one CIA interrogator, the U.S. would choose the country in which it would extradite the prisoners based on the CIA’s intentions for that individual. Robert Baer, a former CIA agent elaborates, “If you want a serious interrogation, you send a prisoner to Jordan. If you want them to be tortured, you send them to Syria. If you want someone to disappear -- never to see them again -- you send them to Egypt” (American Civil Liberties Union, 2005).

While the U.S. and other coalition countries were successful in using technicalities to circumvent laws against torture, these technicalities are only good for protecting against legal ramifications, but they do not take public opinion and the consequence of blowback into consideration. The consequences that have come as a result of using torture have been that the U.S.'s image has been tarnished and the ability of al-Qaeda and other anti-western forces to gain

support has increased. In addition, the use of torture by the United States has given anti-western organizations legitimacy in which they have seen a dramatic increase in monetary support from constituents, as well as an increase in recruits that joined the Jihad in both Iraq and Afghanistan.

The Price of Intelligence

Supporters of using torture as opposed to using conventional intelligence gathering techniques in the war on terror argue that it can lower costs and free up personnel to operate in more proactive areas in the Global War on Terror. The cost of gathering intelligence using torture and extraordinary rendition can often be significantly lower than traditional means of gathering human intelligence. In a traditional human intelligence gather operation, the CIA uses a variety of resources that include large amounts of funds, time, and personnel.

Using traditional human intelligence gathering methods, the DoD spends funding to facilitate agents internationally. These intelligence agents must be housed, fed, compensated with hardship pay, and protected by security forces. Additionally, a key part of human intelligence relies on gathering intelligence through local contacts that have some form of proximity with the target. Convincing these sources to work with the intelligence community often requires large payouts and protection. While the use of torture does not necessarily eliminate the need for these sources, it does provide the CIA the ability to cut back on traditional agent use while keeping agents out of harm's way.

The use of these techniques allows the U.S. to capture an individual(s) suspected of having intelligence and extradite them to a black site using fewer resources than traditional means. The U.S. can reduce the use of its agents by using international entities to capture a suspect, transport them to a black site, and gather intelligence through torture.

While extraordinary rendition and torture are less costly to the U.S., the cost that blowback from these actions brings has not been considered. The consequences that come with using torture will negate any financial saving, and ultimately put more Americans in danger. As seen in both Iraq and Afghanistan, blowback from torture has the potential to prolong conflict. The resources saved by using torture to gather human intelligence are only short term. The potential blowback that torture creates can bleed a country's resources slowly by strengthening the opposition's cause, leading to a prolonged conflict and the creation of others.

Because of 9/11, the U.S. identified the need to provide humanitarian aid to countries that are at risk of cultivating terrorists for a variety of reasons that include stimulating their economy, strengthening local security forces, as well as increasing public relations in targeted regions. In the Congressional Research Service Report for Congress, Bealinger (2006) states that, "In September 2002, President Bush released his Administration's National Security Strategy that established global development, for the first time, as the third 'pillar' of U.S. national security, along with defense and diplomacy." As a result, the U.S. identified the top 30 "front-line" states in the Global War on Terror, and began to allocate resources appropriately.

In 2003, over \$20 billion dollars given to Iraq by the U.S. for reconstruction; much of which goes towards strengthening public relations. Despite the obvious understanding that creating a positive image is pertinent to the success in the war on terror, the U.S. uses torture to obtain short-term gains, consequently undermining President Bush's national strategy for long-term stability (Bealinger, 2006).

In order for the United States to effectively repair its international and domestic image, strengthen national security, and simultaneously remain vigilant against foreign and domestic

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terrorism, it is recommended that U.S. government proactively address the subject of torture by following the acronym “FOREIGN-T” as a guide. FOREIGN-T stands for Foreign Oversight, Reservation/Regulation, Expedite, Identification, Grievances, and National Transparency.

FOREIGN-T

Foreign Oversight

In reforming U.S. policy on torture the U.S. must repudiate the practice of extraordinary rendition and provide serious foreign oversight on countries that detain suspected terrorists to ensure the proper treatment of enemy combatants in the War on terror. In order to rebuild the U.S. international image, it is vital that the U.S. comply with Article 1 of UNCAT and CID standards of torture and ensure that nations that hold suspected terrorists in the Global War on Terror are also in compliance with these standards. To guarantee that U.S. forces and foreign governments comply with these standards, it is recommended that the U.S. establish an international task force similar to the Red Cross, which has unrestricted access to prisoners detained by the U.S. and coalition governments in the GWOT. This international task force will monitor interrogations, interview suspected terrorists regarding their conditions while in captivity, compile and catalogue data in an international database, create a database that will make all findings available to the public, and facilitate the release and reintegration process for exonerated individuals.

Reservation/Regulation

The use of torture by the U.S. has evolved from a tool to prevent a TTB scenario into the status quo in dealing with suspected medium to high-level terrorists captured by U.S. and coalition forces. It is imperative for the U.S. to establish strict criteria for which a suspected terrorist with known TTB information must meet before he/she is subjected to torture. With TTB scenarios being virtually non-existent, the use of torture should be extremely rare and reserved only to prevent catastrophic attacks such as a nuclear attack. To help ensure the use of torture only be applied to TTB scenarios, it is recommended that the U.S. make transparent all cases in which it is applied, and require the approval of the President of the United States for each case in order to establish accountability.

Expedite

To begin the process of rebuilding its international image, the U.S. must push to quickly charge or release any prisoners that remain in Guantanamo Bay, and set a standard operating procedure that will expedite the process of formally charging individuals with crimes once captured. With the controversies that surround Guantanamo Bay being the driving force for al-Qaeda propaganda, this step should take precedence over any other actions. As long as Guantanamo Bay and other black sites around the world are holding individuals indefinitely and subjecting them to torture, the U.S. justice system remains hypocritical to what it stands for.

Identification

To prevent the proliferation of torture in the Global War on Terror, the U.S. must reserve the use of torture solely for individuals who hold valuable information on a TTB scenario. A separate task force within the CIA must be created specifically to evaluate intelligence, recognize threats and capabilities of terrorists, and identify individuals that hold information that could prevent a TTB. The intelligence that supports the decision to use torture must be based on sound evidence that will be presented to, and approved by the President before an individual is tortured. To be effective, the task force must be able to show sound evidence that a credible TTB exists, and that the individual(s) subject to torture holds information that could prevent the attack.

Grievances

In conjunction with the expedited release of prisoners being held without conviction or probable cause, the U.S. must create an independent committee to review the reports submitted by the oversight task force and provide just compensation to those subjected to human rights violations. By recognizing any injustices brought forth by the United States and by compensating individuals for their mistreatment, the U.S. helps reduce the risk of blowback from individuals released, and those associated with that individual. Providing appropriate reparations is a significant part of the healing process for those subjected to torture, and will benefit the U.S. by mitigating the risk of an individual returning to the battlefield with animosity towards the U.S.

National Transparency

To effectively rebuild the U.S.' international and domestic image as well as prevent human rights violations in future cases, the U.S. must use transparency in its use of torture. Information regarding previous uses of torture and extraordinary rendition must be disclosed. All future uses of torture must be as transparent as possible, with respect to maintaining classified material that would compromise future intelligence operations. By acknowledging the use of torture, and operating in a transparent manner according to these policy recommendations, the U.S. will strengthen its international image, reduce blowback, prevent abuses to innocent people, and ultimately increase national security.

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References

- American Civil Liberties Union. (n.d.). *Torture*. Retrieved from <http://www.aclu.org/national-security/torture>
- American Civil Liberties Union. (2005). *Fact Sheet: Extraordinary Rendition*. ACLU. Retrieved from <http://www.aclu.org/national-security/fact-sheet-extraordinary-rendition>
- Amnesty International (n.d.). *Torture and other III - Treatment*. Retrieved from <http://www.amnestyusa.org/our-work/issues/torture>
- Bealinger, A. A. (2006). *Foreign Aid: Control, Corrupt, Contain?* Nova Novinka
- Blakeley, R. (2007). *Why torture?*. Review of International Studies, 33(3), 373.
- Brownlee, K. (2009). *Civil disobedience*. Stanford Encyclopedia of Philosophy. Retrieved from <http://plato.stanford.edu/entries/civil-disobedience/#ThePun>
- Bush, G. W. (2002). *The national security strategy of the United States of America*. Executive Office of the President Washington, DC
- Department of Justice. (2002). Status of Taliban Forces Under Article 4 of the Third Geneva Convention of 1949. Retrieved from <http://www.justice.gov/olc/2002/pub-artc4potusdetermination.pdf>
- Griffin, S. (2006) *Torture and the Ticking Time Bomb*. Balkinization. Retrieved from <http://balkin.blogspot.com/2006/10/torture-and-ticking-time-bomb.html>
- Hannah, M. (2006). *Torture and the ticking bomb: the war on terrorism as a geographical imagination of power/knowledge*. Annals of the Association of American Geographers, 96(3), 622-640.
- International Committee of the Red Cross. (2005). Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949. Retrieved from <http://www.icrc.org/ihl.nsf/FULL/375>
- James, R. (2009). *Jay Bybee: The Man Behind Waterboarding*. TIME U.S. Retrieved from <http://www.time.com/time/nation/article/0,8599,1894309,00.html>
- Margulies, J. (2012). *Abu Zubaydah, the man justice has forgotten*. Los Angeles Times. Retrieved from <http://articles.latimes.com/2012/may/16/opinion/la-oe-margulies-guantanamo-torture-zubaydah-20120516>
- Obama, B. (2009). Remarks by the President on national security. The White House. Retrieved from <http://www.whitehouse.gov/the-press-office/remarks-president-national-security-5-21-09>

Office of the United Nations High Commissioner for Human Rights. (2007). Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment: Article 1. Retrieved from <http://www2.ohchr.org/english/law/cat.htm>

Postel, T. (2013). *How Guantanamo Bay's Existence Helps Al-Qaeda Recruit More Terrorists*. The Atlantic. Retrieved from <http://www.theatlantic.com/international/archive/2013/04/how-guantanamo-bays-existence-helps-al-qaeda-recruit-more-terrorists/274956/>

Singh, A. (2013). *Globalizing torture: CIA secret detention and extraordinary rendition*. Open Society Foundation

Sinnott-Armstrong, W. (2009). *Consequentialism*. Stanford Encyclopedia of Philosophy. Retrieved from <http://plato.stanford.edu/entries/consequentialism/>