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The High Crime of Torture

Arrest Bush, Impeach Obama

by ROB URIE

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Confirmation by the Constitution Project nearly a decade late that the George W. Bush administration and the U.S. military and ‘intelligence’ services committed acts of torture in Iraq, Afghanistan and elsewhere appears a Rorschach test for the ‘sentiments’ of the American people. However, sentiments aside, formal indictments of culpable officials on war crimes charges and the start of impeachment proceedings against current President Barack Obama are the only relevant responses to the report. Torture is a crime under laws to which the U.S. is signatory. And with his war on Iraq George W. Bush and his administration murdered, or caused the premature deaths of, more than a million people and substantially destroyed a modern nation state.

By 2004, when pictures of Iraqi civilians being tortured and humiliated at Abu Ghraib prison were leaked, it was widely evident the Bush administration had established a global system of kidnapping, torture, rape and murder. The grotesque euphemisms ‘take the gloves off’ and ‘enhanced interrogation techniques’ provided cover for criminal behavior only to the extent Americans were willing to suspend judgment of what was before their eyes. The ‘fog of war’ was the fog of contrived fear and the malicious acts of America’s idiot prince and his bosses and acolytes were fueled by ignorance and fed on arrogance and stupidity. The language of nationalist psychosis was revived to insist the saving of ‘American’ lives was worth any price

and as the Constitution Project report demonstrates, America's victims paid that price in real time. And today under the new boss, Barack Obama, they are still paying.

What at first glance seems surprising in the development of the report is Republican Asa Hutchinson, former Under Secretary of Homeland Security for Mr. Bush, and as such a legally culpable party to the crimes exposed in it, co-led the Constitution Project effort. The decade-long use of euphemisms for what was clearly torture served both as legal cover and the public relations interests of the Bush administration. By explicitly calling acts 'torture' in the report a boundary of legal culpability was breached. An earlier report conducted by the U.S. Senate reportedly contains similar findings but remains classified. Together these indicate 'official' evidence of culpability that could be used as the basis for criminal prosecutions if the will and means to prosecute are found. As such, Mr. Hutchinson's role appears to be as leader of an informal 'truth and reconciliation' committee. However, the magnitude of the crimes of aggressive war and torture warrant criminal prosecution, not reconciliation.

In his statement accompanying the release of the Project report Mr. Hutchinson proposed that ignorance of legitimate interrogation methods, and possibly naiveté, were behind the Bush administration's torture policies. The proposition itself is naïve, and in legal terms irrelevant, in that the Bush administration contemporaneously sought legal cover for its actions behind bogus legal theories, engaged in efforts to cover up illegal behavior and carried out phony 'investigations' of torture that limited culpability to low-level operatives. In addition to providing clear and detailed statements that Bush administration actions were torture, Mr. Hutchinson restated facts of broader culpability: former President Bill Clinton started the 'extraordinary rendition' program used by the Bush and Obama administrations and current President Barack Obama continues torture practices and is hiding other current U.S. practices of dubious legality behind the illegitimate veil of 'state secrets.'

To address the most prominent rationale for recent American defenders of torture: as copious evidence suggests, the George W. Bush administration had been warned of the attacks of September 11, 2001 by internal intelligence services, by overseas intelligence services and through a number of personal calls made directly to Mr. Bush from prominent world leaders prior to their occurrence. The 'failure' of 9/11 was the failure to respond to copious and overwhelming evidence an attack was imminent, not from an absence of information. Administration reaction to its failure to prevent the attacks was to fraudulently infer blame onto Iraq to justify launching a war of aggression against it. And illegal torture has been a standard tactic of the U.S. military and intelligence services overseas for decades with no relation to an imminent attack on the U.S. either claimed or inferred. In other words, even if torture had revealed the plot it would have made no difference— it was the failure to act on the available information that facilitated the attacks.

Part of the value of the Constitution Project report is it broadens the realm of 'officially' known U.S. actions in Iraq and Afghanistan to include systematic torture by the U.S. military and intelligence services. That is, far from the administration's contention the use of torture was limited to specific 'targets' and designed to yield specific and urgent information needed to prevent another attack on the U.S., torture was widespread, often used where no information relevant to activities against the U.S. was suspected, and was carried out for purposes unrelated

to direct ‘U.S. interests.’ When put together with a separate BBC report claiming forces led by American James Steele were sent to Iraq to lead ‘counter-insurgency’ efforts that included the systematic torture and murder of Iraqi ‘insurgents,’ historical continuity is added to America’s torture program.

According to the BBC report, in the 1980s Mr. Steele led counter-insurgency forces in Central America on behalf of American business and imperial interests. That effort also included the systematic murder and torture of accused ‘insurgents,’ often innocents caught in the way of right-wing ‘death-squads’ supported by the U.S. The cluttered, confused, and ultimately irrelevant legal ‘justifications’ for torture provided by the Bush administration were transformed from theory to fact when Mr. Steele was sent to Iraq. This isn’t to suggest that U.S.-led torture and murder in Iraq and Afghanistan didn’t precede Mr. Steele’s arrival, but it ties systematic torture and murder past to present. It cannot credibly be argued systematic torture and murder are a response to specific events when they precede those events by decades.

When Barack Obama entered office in 2009 he claimed the right to ‘look forward, not back’ that wasn’t his to claim. The law requires war crimes be investigated and prosecuted if evidence of guilt is found. Behind a veil of political pragmatism, not wanting to be caught up in ‘partisan’ politics, Mr. Obama moved America’s programs of political torture and murder into the 21st century. Had he enthusiastically prosecuted Bush administration crimes Mr. Obama could have revived international sanction against aggressive war and torture and ended, even if only temporarily, the use of ancient imperial techniques in a world with the technological capacity to murder, maim and torture beyond the ancient imagination.

Instead of doing this Mr. Obama claimed the illegitimate and illegal rights of aggressive war, permanent incarceration of known innocents, torture and technocratic slaughter, all under the cover of opaque public relations techniques, quasi-sophisticated language and his casual demeanor. By choosing continuity and enhancement over clear, straightforward and unambiguous break with Mr. Bush’s catastrophic policies, Mr. Obama codified them into the set of ‘acceptable’ practices of American empire. But much as the context of fear and ignorance temporarily protected Mr. Bush and his administration from the clear language of their acts that will sooner or later condemn them to their ever so deserved fates, Mr. Obama chose the wrong side of history. The claims of real politics, that some innocents must die no matter who leads or follows, occasionally joins the ruin corrupt and criminal leaders meet when their crimes pass the historical context that facilitated and incubated them.

Unstated in the continuity of imperial torture and murder is that they never serve their claimed purposes. It was well understood by the standing bureaucracy in Washington during the ‘Bush years’ that torture doesn’t produce ‘useful’ information and that political murder eliminates the unlucky and the unfortunate, not the purported ‘targets.’ When the Bush administration offered nearly unfathomable wealth to poor Afghanis to turn their neighbors in for ‘crimes’ against America, even they weren’t so stupid as to believe those turned over were guilty of anything but misfortune. The unstated purpose of imperial torture and murder is to provide evidence of imperial power—to produce subservience and acquiescence through random terror. Why else does Mr. Obama randomly murder with drones, did Mr. Bush establish his torture regime and concentration prisons, and did Mr. Clinton create his program of kidnapping and torture?

The practical problem with using imperial / state terror as a strategy of political repression is that random torture and murder don't force compliance with imperial and / or state interests—their random nature precludes association between their infliction and specific acts. This general principle was understood by the time of the Nuremberg trials—Nazi law couldn't be followed because it was incoherent. But the point of Nazi law was to force the will of the Nazi leadership onto the German citizenry, not to maintain civil order. What change in behavior can be obtained through Mr. Obama's drone murders other than to prevent people from being males between the ages of 16 and 50 or from sitting down with their families to share a meal? What interest is served other than to terrorize people? The Bush administration had little interest in determining the guilt or innocence of those imprisoned at Guantanamo Bay because the point of their incarceration wasn't (isn't) to punish guilt; it is to demonstrate imperial power.

Americans who see themselves on the 'lucky' side of torture and murder are either members of the tiny ruling class at present outside the realm of possible torture and / or murder or aren't looking at present and recent past circumstance very hard. The purpose of the surveillance state isn't to solve some 'crime' wave because there is none. Persons of the 'wrong' skin color and / or economic class aren't harassed, beaten, fraudulently incarcerated or murdered to reduce 'crime' because an entire ruling class of economic and war criminals is hiding in plain sight and available for arrest were it in 'the state's' interest to reduce crime. The rise of solitary confinement (torture) and the revival of debtor's and for-profit prisons in the U.S. illuminate the political economic interests behind the incarceration state. And as New York City's police Commissioner Ray Kelly recently articulated, the purpose of harassment of, violence against and incarceration of black and brown youth is to create a level of state terror that precludes 'crime.' In other words, terror is the state tactic of repression, not the crime.

Finally, this piece is written in the context of events surrounding the recent bombings in Boston. I lived in Cambridge, a few miles from the bombings, for five years and only recently moved back to New York. I have for decades had family and friends who have run the Boston Marathon, have been an avid runner myself for some twenty-five years, and have been a spectator at the Marathon on several occasions. There is no argument that could be made that any of the victims of the bombings were legitimate political targets. Where I now grieve for those maimed and murdered in Boston, so have I grieved for the innocents, now numbering over one million in Iraq and Afghanistan, who died in illegal wars of aggression, and the many who were also illegally tortured. If what happened in Boston was a crime, and it was, so too is illegitimate war and torture. Mr. Bush and his administration, and now with Mr. Obama joining him, deserve fair trials for their crimes and fitting punishment if found guilty, just as the murderers in Boston do.