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## Confronting Barbarism: ISIS, the United States and the Consequences of Torture

By Michael Meurer  
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In a televised address on August 7, President Obama announced that he had ordered "targeted" US airstrikes in northern Iraq against the self-described Islamic State in Iraq and Syria (ISIS) on the pretext of a humanitarian intervention to help stranded Kurds and US diplomatic staff in Erbil. In his address, Obama said, "I will not allow the United States to be dragged into fighting another war in Iraq." Just 47 days later, on September 23, a new phase in the war on terror had been declared, and US bombing was expanded into Syria.

There is ample reason to believe that Obama's August "humanitarian bombing" of ISIS targets in northern Iraq was equally about the protection of ExxonMobil and Chevron oil and gas production facilities in Erbil. It was a costly action. On August 19, US journalist James Foley was beheaded by ISIS in retaliation. On September 2, Steve Sotoloff, another US journalist, was beheaded by ISIS in a further act of retaliation. Both murders were accompanied by highly publicized beheading videos, with Foley and Sotoloff forced by ISIS to wear symbolic orange jumpsuits. A beheading video of British aid worker David Haines followed on September 13, with Haines also mockingly clad by his ISIS captors in an orange jumpsuit. President Obama's new war in Syria began 10 days later with full Congressional backing. British Prime Minister David Cameron quickly endorsed US bombing and received parliamentary approval for Britain to join the US campaign in Iraq.

The New Yorker's John Cassidy has labeled this Obama's "YouTube war." The carefully choreographed ISIS beheading videos, with their mocking use of orange jumpsuits, were a major factor driving both public opinion and Obama's decision-making. The actions of ISIS jihadists are barbaric, but they represent something worse than publicized incidents of terrorist inhumanity. Yasser Munif, co-founder of the Global Campaign of Solidarity with the Syrian Revolution, believes the moral taunting on the beheading videos was designed to lure the United States into wider war in the Islamic world, thereby elevating ISIS as the primary anti-American force in the region. It is as if the moral compass of the universe has gone tilt as the world descends into barbarism. The vertiginous sense of suspended morality is heightened by tens of millions of TV viewers and YouTube site visitors worldwide witnessing ISIS's open and brutal mockery of the United States and United Kingdom on supposedly moral grounds as they commit murder for the camera.

During September, with the ISIS beheadings and United States drive to war as background, the Department of Defense (DOD) and the Obama administration have also been forced into a debate over how to respond to an August 27, District Court decision in New York ordering the release of 2,000 previously unpublished photos of US torture, brutality and death at the infamous Abu Ghraib prison and five other US detention facilities in Iraq and Afghanistan. The American Civil Liberties Union (ACLU) has been seeking release of the photos since 2004 in a Freedom of Information Act (FOIA) lawsuit. Obama and the DOD were opposed to the release of these photos, years before ISIS emerged, on the grounds that the images are so grisly, they would inflame anti-US sentiment in the Islamic world. However, with the ACLU's litigation on the verge of success, the photos and the war against ISIS have clearly become interrelated.

There is already a huge element of the absurd in the Obama administration's new war scenario that should provoke further debate about overall US policy in Central Asia. There are questions

about the role that US and European actions played in incubating and arming ISIS in Syria, as well as clear evidence that Sunni distrust of the US-backed Shiite government in Baghdad has driven Iraqi Sunnis reluctantly into the hands of ISIS jihadists. There are open divisions and disagreements among national security experts in both parties and within Obama's military team about threat assessment, tactics, timing and the need for ground troops. Many activists on the ground in Syria question the motivation and potential efficacy of US bombing in their country.

In spite of these lingering uncertainties, Obama seemed to be responding primarily to the ISIS beheading videos in his September 24 speech to the UN General Assembly, when he described ISIS as a "network of death" and noted that their brutality "forces us to look into the heart of darkness." The clear implication is that war policy is being hurriedly thrown together without sober reflection because of a visceral reaction to globally publicized ISIS videos. With the pending court order to release the previously unpublished Abu Ghraib photos, the need for such reflection cannot be easily dismissed.

Should the photos be released? Should the United States openly look into its own "heart of darkness" while confronting ISIS? The timing of this decision follows more than a decade of official denial and obfuscation about the images. An estimated 108 captives died in US prisons in Iraq and Afghanistan, including as many as 26 that the DOD has classified as homicides. Obama and Cameron are right to point out that ISIS jihadists are evil and lawless killers. Yet these photos are not about ISIS except to the extent they have tried to co-opt the symbolic imagery of orange US prison jumpsuits to rationalize their barbarity. Before Obama's new war escalates out of control or drags on for months or years with an inevitable need for ground troops, it seems advisable for the United States to finally confront its own barbaric actions and failed strategic decisions in the 13-year-old war on terror - not because of ISIS, but in spite of ISIS.

### **Orange Jumpsuits and the Alternative Reality of Torture**

Nearly every news report explains that ISIS is making their victims wear orange jumpsuits as a mocking reference to the orange jumpsuits worn by prisoners at the US detention facility at Guantánamo Bay, Cuba. It is seldom mentioned that captives in the entire web of US prisons from Bagram in Afghanistan to Abu Ghraib in Iraq, were also made to wear orange jumpsuits. Further, the photos of torture, humiliation and death that have made it into the public domain from Abu Ghraib are even worse than Guantánamo, making it a more potent symbol of US human rights violations.

While the prison at Guantánamo is universally known, the public was unaware that the secretive prison at Abu Ghraib existed - housed in a torture facility used by Saddam Hussein before the US invasion - until a compact disc of digital photos taken by guards was accidentally discovered and reported in 2003. These images depicting widespread torture and violent abuse of prisoners by US troops were subsequently featured in investigative reports by The New Yorker and 60 Minutes II in 2004. When the story finally broke, Bush administration officials, from then Defense Secretary Donald Rumsfeld to Bush himself, declared the atrocities at Abu Ghraib to be the work of "a few bad apples."

A total of 11 low-level enlisted Army soldiers were eventually convicted on charges varying from dereliction of duty to human rights abuses. A colonel was relieved of duty and a lieutenant colonel received a reprimand. Brigadier General Janis Karpinski, the commanding officer at the prison, was cited for "dereliction of duty and shoplifting." In essence, no one was held responsible except a few low-level scapegoats.

The abuses at Abu Ghraib did not happen in a vacuum. It quickly became clear that Abu Ghraib was the end point in a causal chain that led all the way back to the Bush White House and Justice Department, where top administration officials were rewriting US laws defining torture. Following recommendations to President Bush from then White House Counsel Alberto Gonzales, the United States effectively opted out of the Third and Fourth Geneva Conventions on the rights to humane treatment for both prisoners of war and civilians. The Third Geneva Convention "bars torture, cruel, inhumane, and degrading treatment, as well as outrages against the human dignity of prisoners of war, or POWs."

### **The Unintended Consequences of Torture**

Writing in Foreign Policy, Steven R. Ratner, an expert on international law who has worked as an advisor to both the UN and the US State Department, makes it clear that torture does not work as advertised:

Seasoned interrogators consistently say that straightforward questioning is far more successful for getting at the truth. So, by mangling the [Geneva] conventions, the United States has joined the company of a host of unsavory regimes that make regular use of torture. It has abandoned a system that protects U.S. military personnel from terrible treatment for one in which the rules are made on the fly.

In losing sight of the crucial protections of the conventions, the United States invites a world of wars in which laws disappear. And the horrors of such wars would far surpass anything the war on terror could ever deliver.

The Bush administration also tried unsuccessfully to block the adoption of the UN Convention Against Torture in the General Assembly after more than 10 years of deliberation by UN member states. In spite of this failure at the UN, the United States continued to opt out of the Geneva Convention against torture. This was done by rewriting domestic laws on human rights and defining captured prisoners as "unlawful enemy combatants" who had no legal standing as prisoners of war, a decision that Obama continued to support until after his reelection in 2008. The Washington Post described the new regime of officially sanctioned torture in 2004:

In fact, every aspect of this new universe - including maintenance of covert airlines to fly prisoners from place to place, interrogation rules and the legal justification for holding foreigners without due process afforded most U.S. citizens - has been developed by military or CIA lawyers, vetted by Justice Department's office of legal counsel and, depending on the particular issue, approved by White House general counsel's office or the president himself.

In addition to the fabricated rationale for the invasion of Iraq and the invention of concepts such as "pre-emptive war" and "unlawful enemy combatants," the entire world has become aware of US practices such as extraordinary rendition (sending prisoners to countries outside the United States for torture and interrogation), enhanced interrogation techniques (e.g., water boarding and other forms of torture) and the continued operation of a string of prisons in Afghanistan and Iraq that have been repeatedly investigated for fundamental human rights violations.

Yet in August 2014, a 6,000 page, \$40 million report produced by a months long investigation into US torture techniques by the Senate Select Committee on Intelligence was shelved after being heavily redacted by the CIA. Bowing to the CIA and pressure from the Obama administration, committee chairperson Sen. Dianne Feinstein (D-California) issued a statement that the report is being "held for declassification at a later time."

### **The Long Road Back**

War truly is hell. It always will be. Human rights violations occur in every war. What is new since the dawn of the ill-defined and never ending war on terror in 2001 is that the world's most economically powerful and heavily armed superpower has begun to untether itself from its foundational democratic moorings by making such violations a matter of de facto state policy - unapologetically. When moral outrage was expressed by some US senators during May 2004 hearings on the abuses at Abu Ghraib, Sen. James Inhofe (R-Oklahoma) commented that he was "more outraged by the outrage" than by the overwhelming evidence of abuse, torture and violation of internationally sanctioned human rights.

Recent history in Central Asia makes it abundantly clear that the abandonment of democratic ideals and values by powerful nations such as the United States and Britain does nothing to stop terrorism and runs counter to the self-interests of democracies. The long road back from the past decade of state-sanctioned torture and systematic human rights violations begins with democratic openness.

The ACLU lawsuit is a timely case in point. The US Army still has more than 2,000 unreleased photos that document 400 cases of alleged abuse between 2001 and 2005 in Abu Ghraib and six other US prisons. Senators who have seen these images say that many of the photos are worse than the images that have been leaked from Abu Ghraib to date.

The ACLU won a FOIA suit in federal District Court on August 27, 2014, in which Judge Alvin Hellerstein ordered the Department of Defense (DOD) to hand over the photos unless they can conclusively prove that their release would endanger American lives. If the judge maintains his ruling against the DOD, they will almost certainly be encouraged by the administration to appeal the decision. Obama has said that, "The most direct consequence of releasing them . . . would be to inflame anti-American public opinion and to put our troops in greater danger."

The ISIS beheadings give the Obama administration a seemingly urgent rationale for continued secrecy in their refusal to release inflammatory photos of US war crimes committed in Islamic countries. This argument overlooks the fact that it is not possible to stop a descent into barbarism by consciously ignoring history.

More than 100,000 prisoners have been run through the US complex of prisons in Iraq since the US invasion in 2003. Ignoring this reality is no longer an option. Releasing the photos and openly debating the actions and policies that led to their existence would be a more courageous projection of democratic values at this crucial juncture, sending a powerful signal that the United States stands by its core democratic values even when it is least convenient. It would also provide an opportunity for a much-needed reexamination of the premises for Obama's proposed bombing adventure in Syria, and by extension, of the longer-term war on terror. With Obama harking back to George W. Bush's initial Iraq war authorization in 2002 to rationalize his actions, it is a reexamination that is long overdue.

The August 27, 2014, District Court ruling on the FOIA request for the remaining Abu Ghraib photos can be downloaded at the ACLU website.