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Beyond the Senate Torture Report

By Tom Engelhardt

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It came from the top and that's never been a secret. The president authorized the building of those CIA "black sites" and the use of what came to be known as "enhanced interrogation techniques" and has spoken of this with a certain pride. The president's top officials essentially put in an order at the Department of Justice for "legal" justifications that would, miraculously, transform those "techniques" into something other than torture. Its lawyers then pulled out their dictionaries and gave new meaning to tortured definitions of torture that could have come directly from the fused pens of Franz Kafka and George Orwell. In the process, they even managed to leave the definition of torture to the torturer. It was a performance for the ages.

Last week, former Vice President Dick Cheney, who only days after 9/11 claimed that the Bush administration was going to "work the dark side," once again championed those techniques and the CIA agents who used them. It was a handy reminder of just what a would-be crew of tough-guy torture instigators he and his cohorts were. The legal veneer spread thinly over the program they set in motion was meant to provide only the faintest legal cover for the "gloves" they bragged about taking off, while obscuring the issue for the American public. After all, few in the rest of the world were likely to accept the idea that interrogation methods like waterboarding, or "the water torture" as it had once been known, were anything but torture. Even in this country, it had been accepted as just that. The Bush administration was, of course, helped in those years by a media that, when not cheerleading for torture, or actually lending the CIA a helpful hand,

essentially banished the word from its vocabulary, unless it referred to heinously similar acts committed by countries we disliked.

All in all, it was an exercise in what the "last superpower," the world's "policeman," could get away with in the backrooms of its police stations being jerry-built around the world. And some of the techniques used with a particular brutality were evidently first demonstrated to top officials in the White House itself.

Then, of course, the CIA went out and applied those "enhanced techniques" to actual human beings with abandon, as the newly released (and somewhat redacted) executive summary of the Senate Intelligence Committee's "torture report" indicates. This was done even more severely than ordered (not that Cheney & Co. cared), including to a surprising number of captives that the CIA later decided were innocent of anything having to do with terror or al-Qaeda. All of this happened, despite a law this country signed onto prohibiting the use of torture abroad.

Although what I've just described is now generally considered The Torture Story here, it really was only part of it. The other part, also a CIA operation authorized at the highest levels, was "rendition" or "extraordinary rendition" as it was sometimes known. This was a global campaign of kidnappings, aided and abetted by 54 other countries, in which "terror suspects" (again often enough innocent people) were swept off the streets of major cities as well as the backlands of the planet and "rendered" to other countries, ranging from Libya and Syria to Egypt and Uzbekistan, places with their own handy torture chambers and interrogators already much practiced in "enhanced" techniques of one sort or another.

Moreover, those techniques migrated like a virus from the CIA and its "black sites" elsewhere in the U.S. imperium, most notoriously via Guantanamo to Abu Ghraib, the American-run prison in Iraq, where images of torture and abuse of a distinctly enhanced variety then migrated home as screensavers. What was done couldn't have been more criminal in nature, whether judged by U.S. or international law. In its wake, its perpetrators, both the torturers and the kidnappers, were protected in a major way. Except for a few low-level figures at Abu Ghraib and one non-torturing CIA whistleblower who went to prison for releasing to a journalist the name of someone involved in the torture program, no American figure, not even those responsible for deaths at the Agency's black sites, would be brought to court. And of course, the men (and woman) most responsible would leave the government to write their memoirs for millions of dollars and defend what they did to the death (of others).

It's one for the history books and, though it's a good thing to have the Senate report made public, it wasn't needed to know that, in the years after 9/11, when the U.S. government created an offshore Bermuda Triangle of injustice, it also essentially became a criminal enterprise. Recently, Republican hawks in Washington protested loudly against the release of that Senate report, suggesting that it should be suppressed lest it "inflamm" our enemies. The real question isn't, however, about them at all, it's about us. Why won't the release of this report inflame Americans, given what their government has done in their names?

And in case you think it's all over but for the shouting, think again, as Rebecca Gordon, *TomDispatch* regular and author of *Mainstreaming Torture: Ethical Approaches in the Post-9/11 United States* writes today. *Tom*

American Torture – Past, Present, and... Future? By Rebecca Gordon

It's the political story of the week in Washington. At long last, after the endless stalling and foot-shuffling, the arguments about redaction and CIA computer hacking, the claims that its release might stoke others out there in the Muslim world to violence and "throw the C.I.A. to the wolves," the report – you know which one – is out. Or at least, the redacted executive summary of it is available to be read and, as Senator Mark Udall said before its release, "When this report is declassified, people will abhor what they read. They're gonna be disgusted. They're gonna be appalled. They're gonna be shocked at what we did."

So now we can finally consider the partial release of the long-awaited report from the Senate Select Committee on Intelligence about the gruesome CIA interrogation methods used during the Bush administration's "Global War on Terror." But here's one important thing to keep in mind: this report addresses only the past practices of a single agency. Its narrow focus encourages us to believe that, whatever the CIA may have once done, that whole sorry torture chapter is now behind us.

In other words, the moment we get to read it, it's already time to turn the page. So be shocked, be disgusted, be appalled, but don't be fooled. The Senate torture report, so many years and obstacles in the making, should only be the starting point for a discussion, not the final word on U.S. torture. Here's why.

Mainstream coverage of U.S. torture in general, and of this new report in particular, rests on three false assumptions:

1. The most important question is whether torture "worked."
2. U.S. torture ended when George W. Bush left office.
3. The only kind of torture that really "counts" happens in foreign war zones.

Let's look at each of these in order.

False Assumption #1: The only question is "Did it work?"

Maybe torture "worked" on occasion. Probably it didn't. But it doesn't matter because torture is illegal under U.S. and international law, and it's a moral abomination.

The Senate report's first finding – and the one that much of a highly predictable debate will focus on – is that the CIA's "enhanced interrogation techniques" were "ineffective" in identifying the perpetrators of 9/11, producing actionable intelligence, or preventing terrorist attacks. In response, the rhetoric is already flying. The Republicans (except for Senator John McCain) are jumping up and down shouting "It *did* work! It *did*!" The president's own CIA director, John

Brennan, has issued his denunciation of the report. While acknowledging that "the Agency made mistakes," he, too, insisted that torture "worked." (A couple of days later, he backtracked, suggesting instead that the answer to this question was actually "unknowable.") Other former officials of the Agency are chiming in big time.

In the end, it doesn't matter whether the CIA's methods – including waterboarding (which McCain calls "mock execution" and "an exquisite form of torture"); inflicting week-long sleep deprivation; repeated beatings; hanging people by their wrists for days, bombarding them with unbearable sound and light or keeping them in total darkness; threatening to sexually abuse their mothers or harm their children; or, in possibly five cases, shoving a tube up someone's rectum and filling it with water (supposedly for "rectal rehydration") – were effective. It doesn't matter whether these methods led the Navy Seals to Osama bin Laden. It doesn't matter whether these methods prevented an al-Qaeda attack on the Library Tower in Los Angeles. It doesn't matter whether they saved American (and only American!) lives. In fact, for those who read the report, the Senate committee is remarkably convincing on a subject about which we already have much information: torture notoriously does not produce useful information. It produces a tangled mess of truths, half-truths, lies, wild invention and confabulation, psychotic ravings, and desperate attempts to say whatever the victim thinks the torturers want to hear.

But none of this matters. Nor does it matter how frightened we are. The situation isn't complicated. We are not allowed to torture people, because we have passed laws against it and signed treaties saying we won't do it. The U.N. Convention Against Torture, which the U.S. signed in 1994, makes it very clear that being afraid of an attack is no excuse for torture. In Article 2, the Convention states, "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." People will always make excuses, but there is no legitimate excuse for torture.

What's at stake here is the kind of country we want to be: Are we a courageous nation ruled by laws or a nation of cowards?

False Assumption #2: Torture ended when George W. Bush left office.

In his statement on the day the report was released, President Obama tried once again to shove U.S. torture into a box labeled Bad Things We Used to Do. "Rather than another reason to refight old arguments," he said, "I hope that today's report can help us leave these techniques where they belong: in the past."

In fact, institutionalized state torture is not a thing of the past. It has continued under President Obama. Here are some examples:

*Twice a day in the U.S. prison at Guantánamo, guards forcibly remove hunger strikers from their cells, strap them to a chair, and "feed" them through a tube jammed up the nose and down into the stomach. Here's how one victim remembered that experience:

“I will never forget the first time they passed the feeding tube up my nose. I can’t describe how painful it is to be force-fed this way. As it was thrust in, it made me feel like throwing up. I wanted to vomit, but I couldn’t. There was agony in my chest, throat, and stomach. I had never experienced such pain before. I would not wish this cruel punishment upon anyone.”

Force-feeding is no humanitarian act; it is a punishment for nonviolent resistance. It often begins with what officials call "cell extraction" – as if prisoners were teeth to be pulled out of a jaw. Here’s what happens, according to Yemini prisoner Moath al-Alwi, who has been at Guantánamo since 2002:

“When I choose to remain in my cell in an act of peaceful protest against the force-feeding, the prison authorities send in a Forced Cell Extraction team: six guards in full riot gear. Those guards are deliberately brutal to punish me for my protest. They pile up on top of me to the point that I feel like my back is about to break. They then carry me out and strap me into the restraint chair, which we hunger strikers call the torture chair.”

Guards use the "torture chair" to restrain the prisoner, says al-Alwi, but also to make the procedure even more painful:

“A new twist to this routine involves the guards restraining me to the chair with my arms cuffed behind my back. The chest strap is then tightened, trapping my arms between my torso and the chair’s backrest. This is done despite the fact that the torture chair features built-in arm restraints. It is extremely painful to remain in this position.”

At present, a Navy nurse faces possible dishonorable discharge for refusing to participate in these force feedings, because he believes they are a form of torture.

Why are detainees on hunger strike in the first place? They are using the only nonviolent means available to them to protest their indefinite and illegal detention, which the U.N. Committee Against Torture says is in itself a violation of U.S. duties under the U.N. Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment.

* It wasn’t until this December 10th that the U.S. military finally released its last detainees from the notorious Detention Facility in Parwan on Bagram Air Base in Afghanistan. In September 2014, the United States "quietly released" 14 Pakistanis it had held there for some years – none of whom was ever accused of any crime. We know nothing about the treatment of those who remained at Bagram, but we do know that, like the detainees at Guantánamo, the men being held there used hunger strikes as their only nonviolent means of resisting their indefinite detention and solitary confinement.

* In what appears to be a direct contravention of a 2009 presidential executive order to the CIA to shut down all its "black sites," or secret interrogation centers around the world, the Agency seems still to be operating at least one of them. Or at least it was two years later when journalist Jeremy Scahill reported on a secret underground prison in Mogadishu, Somalia, run by the CIA, ostensibly in cooperation with the Somali government’s National Security Agency. There,

according to Scahill, "U.S. intelligence personnel pay the salaries of intelligence agents and also directly interrogate prisoners."

Have these intelligence agents used "enhanced interrogation techniques"? We don't know. What we do know, however, was that the place was dark, filthy, and infested with bedbugs and mosquitoes. We know that prisoners held there had been kidnapped, hooded, and transported by plane in a style familiar to anyone who has followed the CIA's methods over the last dozen years.

If that site is still open, either the CIA is operating it with the Obama administration's knowledge and consent or it is defying the president of the United States. In either case, there was and possibly still is a serious breach of executive power going on.

* During his confirmation hearings, Obama's first CIA director, Leon Panetta, told members of Congress that "if the approved techniques were 'not sufficient' to get a detainee to divulge details he was suspected of knowing about an imminent attack, he would ask for 'additional authority' to use other methods."

* President Obama's 2009 executive order ending CIA torture still left open a little-discussed torture window. It continued to allow for "extraordinary rendition," the capture of terror suspects abroad and their shipping to other countries for detention and interrogation. The U.S. record on this practice since 9/11 has been a grim history of torture at one remove. True, the order says that no one should be sent to a country in which he or she is likely to be tortured, but the U.S. definition of "likely" differs significantly from that of the U.N. Convention Against Torture. Article 3 of the Convention says no one may be sent to another country if there are "substantial grounds for believing that he would be in danger of being subjected to torture." The United States insists on a more lenient standard: prohibiting rendition if it is "more likely than not" that torture will take place. In practice, this means relying on the word of the receiving country that no harm will be done (wink, wink).

* The *U.S. Army Field Manual on Human Intelligence Collector Operations* prohibits many forms of torture. However, a classified "annex" still permits sleep deprivation and sensory deprivation. The U.N. Committee Against Torture flagged this – among many other concerns – in its recent report on U.S. compliance with the Convention Against Torture.

* No high civilian officials or military commanders and other personnel were ever prosecuted for the torture they ordered or oversaw, nor of course were the actual CIA torturers. Instead they're writing their memoirs and painting pictures of themselves bathing. If their political power makes it impossible to try them here, perhaps the outrage of the international community can at least make Dick Cheney and George W. Bush outcasts like other discredited former rulers along the lines of Serbia's Slobodan Milosovic or Tunisia's Zein el-Abidine Ben Ali.

Or maybe the United States could actually follow the U.N. Committee Against Torture's recommendation and finally sign up for the International Criminal Court.

False Assumption #3: Torture only counts when it happens in foreign wars.

This is not true either. Sometimes, torture happens right here in the United States in police stations, immigrant detention centers, and the American jails and prisons that hold 2.3 million people.

When the United Nations Committee Against Torture released its report in November on U.S. compliance with the U.N. Convention against Torture, among the failures the Committee noted were torture and abuse practices in U.S. prisons and immigrant detention facilities. The frequent brutality of U.S. police forces and their rapid militarization also alarmed the Committee.

Specifically, the Committee pointed to the extensive use of solitary confinement for periods of time longer than two weeks – the point at which many people start exhibiting signs of psychosis, including having hallucinations, hearing voices, and experiencing paranoia. In my state, California, there are people who have been kept from all human contact for more than 15 years. We are beginning to recognize that the 50,000 to 80,000 people being held in solitary confinement in this country are actually being tortured every day. Furthermore, as the U.N. report emphasizes, some of these people haven't even been convicted of a crime; they're either being held in pre-trial detention or in immigrant detention centers.

U.S. prisoners also experience high levels of institutionally sanctioned rape and sexual violence. In fact, prison rape is so common, it's a regular plot device on television police procedurals. Want to keep a "perp" from asking for a lawyer? Threaten to send him to Rikers Island, where who knows what can happen to a pretty guy like him.

The Report Is Out. Now What?

Make no mistake. Getting even this partial and redacted report into public view is a real victory for everyone who hopes to end state torture. But it's just the beginning, not the end of the fight. There's still much work to do.

As a start, someone needs to rein in a CIA whose leadership, past and present, seems remarkably committed to the effectiveness of torture practices. We need reports like the one the Senate produced about the whole alphabet soup of agencies involved in the "war on terror." We need a full accounting, and full accountability, including prosecutions of those responsible, or perhaps even official pardons that would at least establish that crimes were committed. We need to end torture in our own jails and prisons.

The Senate torture report could be the opening we need to really make U.S. torture a thing of the past. Let's not waste it!