Torturing America:

Securing the American Interest

Zain Pasha

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Even before his inauguration, President Barack Obama made it clear that he believed torture was morally reprehensible and promised that under his administration the U.S. would no longer practice torture.¹ Accordingly, on April 16th, 2009 Mr. Obama and the U.S. Department of Justice authorized the release of C.I.A. memos detailing the methods of torture that were authorized under the George W. Bush administration.² The release of the C.I.A. memos elicited an almost immediate reaction from former Vice President Richard Bruce Cheney, who in an interview with Fox News on April 21st, 2009 criticized Mr. Obama for failing to disclose documents detailing the “success” of torture in garnering intelligence that was vital to the U.S. War on Terrorism.³ Mr. Obama’s efforts to discredit torture as a justifiable tool for preserving U.S. national security and Mr. Cheney’s rebuke of those efforts attest to the importance and contentious nature of the debate about whether torture is in the U.S. national interest.

Using this debate as motivation, I answer the question of whether or not the use of torture is in the U.S. national interest. To do this, I first chronicle the history of U.S. torture practices since the Cold War to provide a reference point for the rest of the paper. Second, I empirically demonstrate the negative impact of these practices on international U.S. credibility, the War on Terrorism and U.S. presidential approval ratings. Third, I consider the theoretical value of torture in context to its empirical utility as an intelligence-gathering tool, and vis-à-vis possible alternatives, to ultimately make a qualitative assessment of torture’s actual utility for preserving U.S. national security. Finally, I compare the international and domestic consequences of U.S. torture (section 2) to its actual utility (section 3) to ultimately conclude that torture is not in the U.S. national interest.

U.S. Torture: Establishing a Reference Point

Today’s brand of U.S. torture originated from a twelve-year CIA research effort initiated in 1950 whose primary goal was to “crack the code of human consciousness.” As part of this effort, called MKUltra, the CIA conducted chemical experiments with drugs like LSD and behavioral studies on the psychosis inducing potential of sensory restriction and physical constraint.⁴ The results of these efforts were codified in the CIA’s 1963 *Kubark Counterintelligence Interrogation* handbook, which claims to teach a CIA officer “what he must learn in order to become a good interrogator” and asserts that “sound interrogation...rests upon knowledge of the subject matter and on certain broad principles, chiefly psychological.”⁵ Over the

next thirty years the C.I.A. promulgated the *Kubark* methods of torture and those of the 1983 *Human Resources Exploitation Manual* within the U.S. intelligence community and among anti-communist allies in Asia and Latin America.⁶ Even after the end of the Cold War and U.S. ratification of the UN Convention Against Torture, the U.S. continued to torture under the 1996 War Crimes Act and through programs like “extraordinary rendition.”⁷

After the September 11, 2001 President George W. Bush swiftly expanded the CIA’s torture authority beyond even Cold War and Vietnam War levels.⁸ As part of this expansion Bush “suspended” the Geneva Conventions as they applied to the War on Terror and authorized the indiscriminate rendition of High-Value Detainees (HVD)⁹ to at least 8 nations in Northern Africa, Eastern Europe

and Asia that were notorious for torture.¹⁰ The impetus for expanding the rendition program and creating a network of secret prisons or “black sites” came in the wake of fear that followed the 9/11 attacks and from the CIA’s desperation to detain HVDs without legal constraints.¹¹ As the 2004 *Background Paper on CIA’s Combined Use of Interrogation Techniques* describes in general, HVDs were subjected to nudity, sleep deprivation, psychological and physical duress through insult slaps to the face and abdomen, slamming of the face against walls, and other actions reminiscent of the *Kubark* methods of torture.

The experiences of Abu Zubayada and Khalid Sheikh Mohammed, some of the CIA’s highest-value detainees, provide a more detailed exposition of torture under the Bush administration. Zubayada was electrically shocked and locked in a small coffin that was “too small...to stand or stretch out” and required him to “double up his limbs in a fetal position.”¹² Zubayada, along with Mohammed and other HVDs, was also water-boarded, forced to stand naked in frigid temperatures for extended periods of time, deprived of sleep, and forced to listen to panic-inducing American music from artists like Eminem.¹³ Additionally, according to a U.S. Justice Department memo released in 2005, Mohammed was water boarded 183 times, while Zubayada was water boarded 83 times.¹⁴ Other atrocities resulting from U.S. torture include the deaths of two Afghan prisoners at Bagram Air Base in December 2002 who were “short-shackled...for days on end” and officially died, according to a military report, of “blunt force injuries to the lower extremities.”¹⁵ Unfortunately, despite this episode the Afghan “black site” at Bagram remains open today with no prospects of being shut down.¹⁶

Additionally, the brutal interrogation methods that were initially used only against HVDs at CIA “black sites” made their way into detention centers like Abu Ghraib.¹⁷ Former Defense Secretary Donald Rumsfeld, impressed by the results of the extreme

interrogation rules used at Guantanamo Bay, ordered the “Gitmoiz[ation]” of Iraq. Additionally, despite being required to abide by the Geneva Conventions, Major General Geoffrey Miller was committed to applying his Guantanamo Bay experience at Abu Ghraib. Even Lieutenant General Ricardo Sanchez, the senior commander of the U.S. forces in Iraq, willingly authorized harsh interrogation methods such as sleep deprivation, military dog attacks, and uncomfortable temperature exposure.¹⁸ Finally, mysterious CIA operatives, to whom U.S. Brigadier General Janis Karpinski referred to as “disappearing ghosts,” introduced psychological torture, as well as forced nudity and explicit photography to Abu Ghraib.¹⁹ U.S. adoption of Cold War style interrogation practices akin to torture in Iraq ultimately resulted in significant human rights violations and even unintended death.²⁰

Torturing America: The Consequences of Using Torture

In order to determine if the use of torture is in the U.S. national interest, it is important to assess its costs. The 9/11 terrorist attacks lead the Bush Administration to revitalize Cold War U.S. torture policies, which has had several negative international and domestic consequences for the U.S. Specifically, U.S. torture since the 9/11 attacks has decreased international U.S. credibility, increased global terrorism and harmed U.S. presidential approval ratings.

International Credibility

First, using torture undermines international U.S. credibility because U.S. insistence on international adherence to human rights norms and simultaneous use of illegal torture practices casts the U.S. as a hypocrite in the eyes of the international community. Dr. Joseph S. Nye, Jr. and Richard L. Armitage agree when they argue “[America] cannot denounce torture and waterboarding in other countries and condone it home.”²¹ To be sure, a report released by China in 2008 used U.S. secret prisons and illegal U.S. torture

practices to accuse the U.S. of hypocrisy in condemning China's human rights record.²² Moreover, in 2006 Vladimir Putin accused the U.S. of hypocrisy in criticizing Russia's human rights record with veiled references to illegal U.S. interrogation methods and use of force.²³ Indeed, in maintaining a hypocritical policy of torture the U.S. not only undermines international human rights norms, but also subsequently harms its national interest when those norms become necessary for preserving U.S. national interests (e.g. when American soldiers are captured by other nations).²⁴

Moreover, many nations use U.S. use of torture to justify their own policies. For example, when questioned by the UN in 2007 about its widespread and illegal torture practices, Sri Lanka defended itself by citing U.S. torture at Abu Ghraib, Guantanamo Bay and CIA "black sites."²⁵ Additionally, President Hosni Mubarak defended Egypt's use of military tribunals for trying suspected terrorists by claiming that U.S. suspension of international human rights laws and use of military tribunals in cases of suspected terrorism vindicated Egypt of all criticism by international human rights groups.²⁶ Indeed, then UN special rapporteur on torture Manfred Nowak agrees that U.S. use of torture has increased the global prominence of torture, as many nations view the U.S. as a model, or at the very least a justification, for their own policies.²⁷ Similarly, Oxford University's Henry Shue argues that use of torture by a superpower like the U.S. in particular sets an irresistible precedent for weaker nations who may not have alternative counterintelligence resources (i.e. if torture is universally outlawed weaker nations are forced not to use it, but if world leaders break torture laws weaker nations find it irresistible not to follow suit).²⁸

Finally, U.S. use of torture undermines U.S. soft power leadership because it diminishes international opinion about the U.S.²⁹ To be sure, a January 2007 World Public Opinion Poll of 26,000 people across 25 countries revealed that 67% of respondents

America's brutal treatment of prisoners in Guantanamo and Abu Gharib has tarnished its image abroad.

disapproved of the way in which the U.S. treated Guantanamo Bay detainees and 49% of respondents (the largest plurality) felt the U.S. had an overall negative impact on the world.³⁰ The implications of this are significant. For one thing, the U.S. relies on its soft power to gain the support of nations like Germany and Malaysia in the fight against terrorism. If public sentiment about the U.S. among the citizens of key U.S. allies is sufficiently negative, the U.S. may not be able to cooperate with those allies to confront a national security threat. For example, the U.S. may not be able to get permission to bomb an al-Qaeda terrorist cell in Malaysia, or it may not receive German political and military support in starting a campaign against terrorist groups. Moreover, soft power losses become self-perpetuating, as negative international opinion of the U.S. elicits isolationist responses from U.S. citizens that subsequently embolden U.S. enemies like al-Qaeda. Finally, winning the War on Terror necessitates moderate Muslim leadership in the Islamic world. For this, U.S. soft power diplomacy is crucial as it creates linkages between the U.S. and moderate Muslims that can subvert the influence of Muslim extremists.³¹ Indeed, without the support of our allies and those living in the Middle East, the U.S. will have a hard time winning the War on Terrorism.³²

Increased Terrorism

A recent study that looks at the relationship between torture and terrorism finds that use of torture actually *increases* terrorism globally. The study argues that governments should avoid engaging in torture to combat terrorism, as doing so supports terrorist recruitment by radicalizing populations and increasing sympathy for terrorist causes.³³ Some may argue that reverse causation disproves the study's finding (i.e. countries who face terrorist threats tend to use torture), but an analysis of a robust data set of government physical integrity abuses confirms that the direction of causation, for torture in particular, is indeed that torture leads to terrorism and not the other way around.³⁴

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Moreover, the radicalization of the Egyptian Muslim Brotherhood in the 1950s attests to these findings. In 1954, the Egyptian government imprisoned and tortured thousands of members of the Muslim Brotherhood, including Sayyid Qutb, a U.S. educated and moderate member. Qutb's experience with Egyptian torture convinced him that violence against the West was justified; he subsequently wrote several widely influential texts (e.g. *Milestones*) that today inspire terrorist organizations like al-Qaeda to undertake acts of violence against Western nations.³⁵ More generally, government use of torture can alienate individuals loyal to the government and subsequently cause them to actively support and even join terrorist causes.³⁶ During a Senate Armed Services Committee Hearing, Alberto J. Mora reported that the first and second most important “identifiable causes of U.S. combat deaths

in Iraq – as judged by their effectiveness in recruiting insurgent fighters into combat – are respectively the symbols of Abu Ghraib and Guantanamo.”³⁷ Even Matthew Alexander, the leader of an interrogation team assigned to a Special Operations task force in Iraq in 2006 concedes that the U.S. “...policy of torture was directly and swiftly recruiting fighters for al Qaeda in Iraq.”³⁸

Presidential Approval Ratings

Finally, use of torture poses domestic-political challenges for the U.S. in the War on Terror, as citizens and political coalitions opposed to torture may withdraw their support for the government.³⁹ I use presidential approval ratings, in particular those of President George W. Bush after the May 2004 release of photos from Abu Ghraib to demonstrate the decline in public support that accompanies U.S. use of torture. Presidential approval ratings are one of the leading indicators of public support for government policies, which means demonstrating a decline in presidential approval due to the abuses at Abu Ghraib would support the argument that U.S. use of torture decreases public support for the government.

According to a CBS News Poll Report that surveyed President Bush's approval ratings throughout his presidency, “as the prison abuse at Abu Ghraib came to light... just 41% of Americans approved the job Bush was doing as President – *his lowest rating to date at that point in time* (emphasis added).”⁴⁰ Moreover, a CBS News Poll conducted immediately after the first release of photos from Abu Ghraib found that 61 percent of Americans disapproved of Bush's handling of Iraq.⁴¹ Additionally, a CNN poll conducted during the same period found that only 46 percent of Americans approved of Bush, which was the lowest approval rating for Bush in that particular poll up to that point in time.⁴² Although Bush's approval ratings rebounded after a his public apology and promise to investigate Abu Ghraib, the immediate and severe decline in presidential approval after

Abu Ghraib demonstrates that Americans are willing to oppose the U.S. government if it engages in torture.

Is Torture Worth It?: The Actual Utility of Torture

Although the absolute consequences of U.S. torture are significant, it is important to consider them in context to the possible utility of torture in preserving the U.S. national interest. In this section I make a qualitative assessment of the actual utility of torture by evaluating the theoretical arguments for why torture is necessary vis-à-vis its utility in practice and possible alternatives. By doing this, I determine whether or not torture has some counterintelligence benefits, and if it does, whether or not there are alternative methods by which to access them.

Alan Dershowitz advances one of the most sophisticated justifications for the necessity of institutionalized torture with his “ticking time bomb” argument. Put in context to today’s War on Terrorism, Dershowitz writes that the “ticking time bomb” case is one that “involves a captured terrorist who refuses to divulge information about the imminent use of weapons of mass destruction, such as a nuclear, chemical or biological device, that are capable of killing and injuring thousands of civilians.” Dershowitz argues that because the use of torture would be inevitable in such scenarios, the U.S. should institutionalize torture by requiring warrants. It is important to note that Dershowitz does not advocate universal torture but feels that because the use of torture would be inevitable in the case of a “ticking time bomb,” the government should institute checks to ensure accountability.⁴³

Israel became the first nation to legalize torture based on the “ticking time bomb” after the Landau Commission reported that torture is justified in the case that it is known

“with great certainty that there is indeed a bomb...that it will explode if we do not neutralize it...that it can indeed be

neutralized...that the person in our hands indeed knows where the bomb is located... that if we torture him he will provide the desired information...that if he provides the information we will be able to neutralize the bomb...and that there is no other way of uncovering the bomb...and so forth.”⁴⁴

The Landau Commission’s description attests to the surreal nature of the “ticking time bomb” justification for torture, which is to say that the scenario arises rarely, if ever.⁴⁵ Even Michael Gross, an advocate of the “ticking time bomb” argument, recognizes that for countries like the U.S. and Israel the “ticking time bomb” is perhaps the most unrealistic scenario. According to Gross, this is because “The ‘ticking bomb’ scenario holds only if we know with certainty that others besides the suspect will not intervene to move the bomb...”⁴⁶ With organized terrorist groups like al-Qaeda, there are many individuals who can relocate the bomb or change the time of detonation, which renders any possible intelligence gathered through torture effectively useless. Moreover, two key logical problems with the premises of the “ticking time bomb” scenario make its conclusion of justified torture unattainable. First, there is no real world scenario in which interrogators would be certain that there is a bomb without it having gone off first. Second, interrogators cannot know with certainty that a suspect has the intelligence necessary to disarm the bomb or that he will willingly provide it.⁴⁷

Additionally, use of the “the ticking time bomb” justification puts a government on a slippery slope that can lead to more abusive, widespread and indiscriminate torture. In his essay *Torture in Dreamland: Disposing of the Ticking Time Bomb*, Henry Shue argues that it would be naïve “...to believe that the kind of people who are running the so-called ‘War on Terrorism’ would, if they had discretion about using torture in secret—against ‘ghost detainees’ in ‘black sites,’ say—choose to restrain themselves in spite of the impossibility of accountability.”⁴⁸ The use of torture methods by Israel’s GSS beyond those authorized by

the Landau Commission corroborates Shue's concerns.⁴⁹ Additionally, the arbitrary time-horizon implied by the imminence of a "ticking time bomb" permits the "justified" use of torture against virtually anyone, as every case can be cast as a "ticking time bomb" (i.e., any threat can be considered imminent regardless of the actual time horizon).⁵⁰

In general, torture is a largely ineffective counterintelligence tool and has very little utility for preserving U.S. national security. During his presidency Bush ardently defended torture as crucial to U.S. national security, and even today, former Vice President Cheney maintains that torture yielded intelligence that prevented terrorist attacks against the U.S. David Rose, however, after interviewing several U.S. counterterrorist officials concludes that, "not only have coercive methods failed to generate significant and actionable intelligence, they have also caused the squandering of resources on a massive scale..."⁵¹ Even former CIA officer Bob Baer agrees that torture is ineffective at gathering useful intelligence, noting that "... you can get anyone to confess to anything if the torture's bad enough."⁵² Moreover, despite official claims that use of torture yielded useful intelligence, the CIA has not provided any evidence of stopping a "ticking time bomb" nor has the agency conclusively tied progress in the War on Terror to the use of torture.⁵³

Additionally, the interrogations of Abu Zubaydah and Ibn al-Shaykh al-Libi concretely demonstrate the ineffectiveness of torture in garnering actionable intelligence for the War on Terror. First, the CIA interrogated Abu Zubaydah over a hundred times during his first year of incarceration and used the "intelligence" he provided to make worldwide arrests. Unfortunately for the CIA, Zubaydah was mentally handicapped (diagnosed with split personality disorder) and as a minor member of al-Qaeda had minimal knowledge about the organization's plots. Although the Bush administration claimed that Zubaydah provided intelligence that lead to the capture

of Khalid Sheikh Mohammed, in reality the CIA already knew the information Zubaydah provided a few years earlier. In fact, the intelligence that actually lead to Mohammed's capture came from a tipster to whom the CIA paid \$25 million (and did not torture).⁵⁴

Former Vice-President Dick Cheney has been adamant in his defense of American torture practices.

Second, the torture of Ibn al-Shaykh al-Libi, an al-Qaeda paramilitary trainer, is perhaps the most important example of the ineffectiveness of torture and of the misinformation that torture oftentimes yields. Based on al-Libi's reports that Iraq provided al-Qaeda with chemical and biological weapons, Bush made a public case for invading Iraq in his October 7th, 2002 Cincinnati speech. Moreover, Bush was so certain about al-Libi's statements that he even ignored the National Intelligence Estimate's conclusion that Saddam Hussein was not likely to provide chemical and biological support to terrorist groups; even Colin Powell trusted al-Libi's information enough to use it in his UN presentation on Iraq's weaponry.⁵⁵ As the U.S. now knows, al-Libi's information was false, and the reason al-Libi provided false information was because he sought to pacify those who "were killing" him.⁵⁶ Al-Libi's case is indicative of a larger problem with counterterrorism

interrogation: interrogators can never be sure of what a detainee knows or who he is, and thus can never be certain of the integrity of the information they received.⁵⁷

Finally, when assessing the necessity of torture for the U.S. national security, it is important to consider possible alternatives that are perhaps more effective at gathering counterintelligence. Even Dershowitz recognizes in his “ticking time bomb” argument that torture should only be used when all other options have been exhausted, which implies that if there are empirically proven alternatives—which there are—torture should never be used.⁵⁸ Perhaps the most effective alternative to torture is not using it. More specifically, intentionally avoiding the use of torture and instead building a relationship of trust with detainees has in practice yielded more and better intelligence than torture. To be sure, when Abu Zubaydah was questioned with the FBI’s “rapport-building” techniques, he revealed logistical details of the 9/11 attacks, identified Khalid Sheikh Mohammed by his alias and even accidentally identified Jose Padilla during small talk.⁵⁹ Moreover, Larry Johnson, a former CIA officer and a deputy director of the State Department’s Office of Counterterrorism notes, “it is better to build a relationship of trust...than to extract quick confessions through tactics such as those used by Nazis and the Soviets.”⁶⁰ All of this is to say that focusing on trust building in lieu of using torture is an empirically proven better way of securing the U.S. national interest.

Torture clearly provides very little utility for preserving U.S. national security, even in instances of a “ticking bomb” because interrogators can never be certain of the integrity of the intelligence they receive. Moreover, as the cases of Abu Zubaydah and Ibn al-Shaykh al-Libi demonstrate, torture has provided at best redundant information and at worst false intelligence that caused the U.S. to invade Iraq. Finally, even if torture has some utility “rapport-building” is more effective at garnering counterintelligence than torture.

Based on this qualitative assessment, I conclude that torture has very little *actual utility* for preserving U.S. national security.

Is Torture in the U.S. National Interest?

U.S. use of torture under the Bush administration has had several negative consequences. First, U.S. torture has undermined international U.S. credibility as nations like Russia and China label the U.S. as hypocritical for advocating human rights and simultaneously using torture. Second, U.S. torture has undermined international human rights norms, which prevents the U.S. from condemning human rights violations and allows other nations to justify their torture policies (e.g., Sri Lanka). This harms the U.S. national interest when those norms become important for protecting the lives of captured American soldiers. Third, use of torture has undermined U.S. soft power leadership around the world, which impedes global cooperation on the War on Terror and harms the ability of moderates to gain power in the Islamic world. Fourth, torture increases global terrorism by radicalizing previously moderate segments of the international population, increasing sympathy for terrorist causes, and consequently bolstering the recruitment efforts of organizations like al-Qaeda. Fifth, use of torture decreases presidential approval ratings and thus reduces public support for U.S. national security policies.

Moreover, torture offers little actual utility for preserving U.S. national security even in the case of a “ticking time bomb.” Indeed, the premises upon which the “ticking time bomb” justification is situated make the scenario very unlikely to occur in reality, which effectively makes it an argument for why torture should never be used. Furthermore, the vague time-horizon implied by the term “imminent” in the case of the “ticking time bomb” makes it a slippery slope that results in the use of torture against virtually anyone. Additionally, interrogators can never know with certainty that a detainee will provide

actionable or accurate intelligence. To be sure, the cases of Abu Zubaydah and Ibn al-Shaykh al-Libi demonstrate that torture oftentimes yields redundant and even false information, which makes it useless as a counterintelligence tool even in “ticking time bomb” scenarios.

Finally, even if there are some benefits to using torture (e.g. if a cooperative terrorist with exact details of how to disarm a “ticking time bomb” were apprehended), alternative methods like the FBI’s “rapport-building” have been empirically proven to be more effective at garnering intelligence. All of this is to say that torture is not in the U.S. national interest, as not only has torture been counterproductive for the U.S. in the War on Terrorism and not provided any mitigating benefits, there are alternatives that have been empirically proven to be more effective than torture at preserving U.S. national security.

Conclusion

In this paper I answered the question of whether the use of torture is in the U.S.

national interest. I did this by first chronicling U.S. torture practices since the Cold War, second enumerating the negative consequences of torture for international U.S. credibility and the War on Terrorism, third making a qualitative assessment of torture’s actual utility for preserving U.S. national security, and finally comparing the ramifications of torture to its actual utility to ultimately conclude that the use of torture is not in the U.S. national interest. Indeed, despite arguments to the contrary, U.S. torture has not provided any unique benefits for the War on Terrorism but has had several persistent negative consequences for U.S. national security. Thus, by outlawing U.S. torture, pledging to shut down Guantanamo Bay and releasing information about torture under the Bush administration, President Obama has demonstrated that he is capable of moving in the right direction for securing the U.S. national interest.

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