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Many liberals are expressing concern over the Obama Administration's disappointing position regarding torture. On one hand the administration appears to be coming clean on the Bush Administration's legal acrobatics around the torture issue. The release of the now infamous torture memos and the endless stream of information that is pouring forth is nothing short of sickening, but certainly indicative of major crimes against humanity.



Look how far we've come! Above is a woodcutting of medieval waterboarding. To the right, US soldiers in Vietnam use the recognized torture technique on a prisoner. Today we find ourselves mired in a debate that should have been resolved two hundred years ago!



The revelations that have come forth demand attention, require definitive action. In light of this, the Obama Administration has determined to...put off making any kind of determination. President Obama states that "this is a time for reflection, not retribution." Of course, this reflection is limited as photos of detainee abuse that he promised to release as a candidate are now being withheld. To justify this turnaround, Obama claims that "nothing can be gained" from their release. Nothing can be gained by facing the truth? That's a strange position from someone supposedly dedicated to government transparency.

Yes, Mr. President, let's take the growing evidence of human rights violations and reflect on it. God forbid there should be retribution against those who have not only violated human rights, but three hundred years of enlightened cultural evolution—not to mention the law. Let's ignore the fact that similar techniques used against Americans justified a fifteen year sentence for Yukio Asano, a Japanese officer who water-boarded American soldiers in World War II. To Asano's misfortune, that was a time of retribution, not reflection!

I'm an advocate for reflecting on history. But U.S. sanctioned torture is not history when the authors of this medieval legal framework are still active: one, Jay Bybee, a federal appellate court judge and another, John Yoo teaching future legal loophole artists at Berkley. To allow these criminals to live their lives without a legal

response—read "retribution" by Obama—and thrive in their fields is reflective of an underlying barbarity in our political institutions and in our society.

That the Bush Administration, or at least specific officials of the administration are complicit in criminal conspiracy is clear. The energy and creativity that they put into distorting established law to justify their sinister, ideological goals is awe inspiring.

A wise man once told me that you don't have to justify doing the right thing. Yet men like John Yoo and Jay Bybee felt inclined to write tens of thousands of words to defend and redefine Bushco's "enhanced interrogation" techniques.

The case is simple. Torture is against the law. Namely, it's against the US Code, the US Constitution, the UN Charter and the Geneva Convention, to name a few. The

very techniques described in the torture memos are definitive acts of torture. There, we've reflected. Now what should we do about it? Ignore the facts? Ignore our moral obligations to truth and justice? Ignore our responsibility to the cause of humanity?

What Influences Obama's Reflection?

I would not, however, hold my breath for the Obama Administration to act. Obama is legitimized by the very power structures that legitimized Bushco; and power does not turn against itself. The institutional pressures on Obama to do nothing more than "reflect" are great. So long as the government is motivated by power, the quest for justice will be hard fought, regardless of who is in the Oval Office.

Primarily, Obama has inherited an institution bulging with the accumulation of power, consolidated over the last sixty years and quickened by the Bush Machiavellis. We cannot assume that Obama is above the corruptive influences of the state of which torture is just one of many manifestations. Few in history have ever endeavored to dis-empower the very institutions to which they were beholden.

Secondly, Obama may want to reserve the right, as the most powerful man in the world, to exercise power in less than ethical

ways. His administration is taking its first steps. Obama recognizes that there may come a time when decisions constrained by morality may be...inconvenient. Should he decide that now is the time for retribution against torturers, then in five or ten years there may be a retribution time for his historical legacy. It could be said, however, that an administration dedicated to the Universal Rights of Man would not hesitate to prosecute torturers, but an office intent on keeping the straight of moral relativism open would be hesitant.

Reflection also allows Obama significant room for negotiation among competing interests. The prospect of prosecution or political reciprocity constitutes a great Sword of Damocles over the heads of those who may otherwise work against his goals. To prosecute would mean losing political capital...which some people might confuse for blackmail. The fact remains, Obama holds considerable political cards in the same hand that he holds unreleased photos of detainee abuse.

Also, the fact that the torture doctrine is a construct of elite interests poses a problem with regard to elite networks. The relative number of elites is small and heavily interconnected. Regardless of media friendly sound-bite presentations of contention between Republicans and Democrats, the inner circle of elite power is contiguous. The bureaucracy is often run by the same set of groups and individuals from the same schools and the same businesses. A criminal investigation may ultimately entangle political allies in the net.

According to Prof. Alfred McCoy, of the University of Wisconsin, the rationalization of torture is nothing new to American politics. It goes back to the fifties and has been, more or less, an integral part of the intelligence community's evolution under Democrats as well as Republicans. Every administration bears the taint of torture. So can Obama take the chance of discrediting President Clinton, a major standard bearer for the Democrats, under whom rendition and torture occurred. And in doing so, would he also discredit his own Secretary of State?

So any prosecution of the architects of American torture will most likely be left in the hands of historians yet to come. For now, however, there will be no such effort on the part of the enforcement authority. We may see some people get disbarred. Perhaps enough pressure will bring Judge Bybee down from behind the bench. However, those who led the United States of America, a nation conceived in the salons of the Enlightenment, back to the infamy of the Inquisition, will go free about their business. They are as unlikely to be prosecuted as bankers.

Power trumps justice in the game of politics. Institutional contingency trumps morality. Expect no contrition from the power elite for being a harbinger of evil in the world.

Torture is about politics, not investigation!

I was recently involved in a debate about torture. During the debate, my opponent asked, "has it ever occurred to you that the people who are allegedly being tortured have information that could save lives. They are not being tortured for the sport of it, you know."

Really? There's a problem with this claim. A few months ago I wrote an editorial for Agitate called *Tortured Logic*. This article shreds the logic of torture as a device for gaining information. All intelligence experts know that little valuable information comes

from torture and that agents are more likely to find themselves chasing red herrings based on information gleaned from a desperate, or even psychotic person hoping to escape intense pain or deprivation.

Historically, torture is used to legitimize power and exploitation. This was famously demonstrated during the Inquisition. The power institution, in this case the church, feared that their subjects were turning away from them, embracing dangerous ideas. They defined such activity as heresy that must be stamped out. They made extremist claims that Satan was behind these heresies, hoping to destroy the church of God. The Inquisition then proved their claims by extracting confessions of heresy, witchcraft and even Satanic worship through brutal torture.

Similarly, brutal, archaic and criminal agencies like the CIA legitimize their existence by convincing us that there are secret cabals intent on destroying America. Only the intelligence establishment can save us from these evil forces. To do so, they must be ready to use brutal techniques in order ferret out the evil doers. September 11th seems to be the ultimate confirmation of this particular brand of paranoia. However, 9/11 also constitutes a tremendous failure on the part of the intelligence community. Extracting confessions from alleged conspirators legitimizes the very institutions that failed us in 2001, failed us in Afghanistan, and failed us in Iraq.

To confirm this perspective, we have evidence that torture techniques approved by the US government were not used to gather information. They were actually attempts to create a false link between al Qaida and Iraq. Officials are admitting that they were instructed to find such a connection; if enhanced interrogation was being used to gather information, then interrogators would have been instructed to determine if such a connection existed rather than prove a foregone—and ultimately false—conclusion.

So it may be that victims of US interrogators were not tortured for the "sport of it," but they certainly were not tortured for information. They were put under the lash for the same reasons as fifteenth century heretics. Torture was committed to legitimize the significant expansion of power in the hands of the state.



The case of Abu Zubaydah offers testimony to the futility and barbarity of torture. As revealed by journalist Ron Suskind, Zubaydah, though trumpeted as a major player in al Qaida, was nothing more than a low level clerk. He was arrested, detained without trial, and ultimately tortured by the CIA. This torture led to a torrent of confessions about plots against the Statue of Liberty, the Brooklyn Bridge, and any number of sites that Zubaydah could think of. Every one of his confessions was followed up by agents, and every one of his confessions was false. In fact, the only useful information gleaned from Zubaydah, was extracted by the FBI using conventional interrogation techniques.

Take Action!

There's only one thing that will motivate politicians to make a moral stand...popular outrage. Please use the contact information on the Agitate Links page to contact your representative and the White House and let them know how you feel about torture!

