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Political Language, Policy Formulation and the Practice of Torture in the War on Terrorism: Implications for Human Rights

Richard Jackson

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Introduction¹

Apart from the flurry of interest immediately following the publication of the Abu Ghraib photographs in early 2004, the American media, political establishment, and wider public have thus far exhibited a deep reticence to confront the so-called ‘torture scandal’ as an issue for sustained political debate.² This is not at all surprising, given that instances of torture³ by service personnel profoundly challenges deeply-embedded cultural-political beliefs about American civic identity, the military, and the nature of the American polity. In fact, the public record demonstrates that the torture and abuse of prisoners in the war on terrorism has been far more extensive than official investigations and media reports would suggest, and has been taking place since the war on terrorism began in late 2001 (see below). The public-political failure to accept the occurrence of systematic long-running torture in US-run facilities may explain why so little attention has so far been given to the deeper explanations of how a climate of torture is created and sustained; blaming the torture on a few ill-disciplined and ‘un-American’ ‘bad apples’ instead has obvious political, legal, and cultural advantages. In particular, there has been a dearth of research into the role of public political discourse in constructing and sustaining the conditions necessary for the acceptance and normalization of torture across the military and wider society.⁴

The purpose of this paper is to examine the ways in which the political language of senior public officials regarding the terrorist threat facing America is implicated in the formulation of the torture policy, and the actual torture and abuse of prisoners. The central argument is simple: the discourse of the war on terrorism set the logic and possibilities of policy formulation in the first instance, and helped to create the wider legitimacy and social consensus that is required to enact policy. Importantly, there is a

¹ This study extends the research presented in my most recent book: Richard Jackson, *Writing the War on Terrorism: Language, Politics and Counter-Terrorism*, (Manchester: Manchester University Press, 2005).

² A CBS poll showed that 57 percent of Americans did not want any more abuse pictures to be released, and 49 percent said the media had spent too much time on the story (compared to just 6 percent who thought it had been under-covered). Poll quoted in Lila Rajiva, *The Language of Empire: Abu Ghraib and the American Media* (New York: Monthly Review Press, 2005), p. 68. Rajiva examines the media response to the scandal and concludes that it was reluctant to give it wider coverage, in large part because it simply found the allegations to be ‘too unbelievable’ (p. 162). Similarly, Karen Greenberg argues that ‘very few Americans are eager to engage in a debate about the revival of torture in their name’ and that ‘the public response has remained at best apathetic’. Karen Greenberg, ‘Introduction: The Rule of Law Finds its Golem: Judicial Torture Then and Now’, in Karen Greenberg, ed., *The Torture Debate in America* (Cambridge: Cambridge University Press, 2006), p. 1.

³ In this paper, I adopt the definition of torture contained in the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Torture is defined as ‘any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.’ Available at: http://www.unhcr.ch/html/menu3/b/h_cat39.htm.

⁴ Ronald Crelinsten provides a powerful exception, although his paper does not focus on specifically on the ‘torture society’ created in the war on terrorism. See Ronald Crelinsten, ‘The World of Torture: A Constructed Reality’, *Theoretical Criminology*, vol. 7, no. 3 (2003), pp. 293-318.

growing consensus that the current discourse and practice of torture and abuse by American service personnel is proving damaging to the wider international human rights framework and to human rights standards in other countries.

The paper is divided into three main sections. In the first section, I summarize what is known about the extent of torture and prisoner abuse, as well as the nature of official complicity in those abuses. The second section provides an overview of several individual, social-psychological, and historical factors that are vital to understanding the occurrence of torture and prisoner abuse in this and other contexts. The third and most important section explores the role of public political discourse as a key explanatory factor in the deliberate construction of the torture policy, as well as its role in creating military and public acceptance for such treatment. In the conclusion, I discuss the implications of torture on the wider human rights context, as well as some of the broader ontological and normative implications of the paper's central findings.

What is Known about Torture in the War on Terrorism

The extensive public record relating to 'the torture scandal' suggests two broad conclusions: first, the torture and abuse of prisoners has been a long-running and central strategy of the war on terrorism; and second, despite frequent public denials, senior officials were highly complicit in constructing the torture policy from the very beginning.

The Extent of Torture and Prisoner Abuse

The ever-increasing wealth of public information on the prisoner abuse scandal clearly demonstrates that the use of torture and cruel and inhumane treatment against prisoners by American forces has been both widespread and systematic.⁵ In the first instance, the public record confirms that officials and human rights organizations first began to raise their concerns about the treatment of terrorist suspects swept up after the September 11, 2001 attacks, as well as the treatment of captives during Operation Enduring Freedom, in late 2002 – nearly two years before the Abu Ghraib photographs were first published.⁶ In other words, allegations of torture and abuse of prisoners have been reported for more than three years, since the early days of the war on terrorism.

The extent of the torture and abuse is revealed in official military investigations which have recorded around 300 official allegations of abusive behaviour towards detainees in more than twenty US-run detention centers up to August 2004.⁷ The ICRC

⁵ Published documentation of the extent of torture and abuse in the war on terrorism can be found in the following sources, among others: Mark Danner, *Torture and Truth: America, Abu Ghraib, and the War on Terror* (New York: New York Review of Books, 2004); Karen Greenberg and Joshua Dratel, editors, *The Torture Papers: The Road to Abu Ghraib* (Cambridge, NY: Cambridge University Press, 2005); David Rose, *Guantánamo: America's War on Human Rights* (London: Faber and Faber, 2004); Seymour Hersh, *Chain of Command: The Road from 9/11 to Abu Ghraib* (London: Penguin, 2004); David Cole, *Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism* (New York: The New Press, 2003); Rachel Meeropol, editor, *America's Disappeared: Secret Imprisonment, Detainees, and the "War on Terror"* (New York: Seven Stories Press, 2005); Lila Rajiva, *The Language of Empire: Abu Ghraib and the American Media* (New York: Monthly Review Press).

⁶ Human Rights Watch, for example, wrote to President Bush with their concerns in December 2002. See Rajiva, *The Language of Empire*, p. 47.

⁷ See 'The Schlesinger Report', August 2004, in Greenberg and Dratel, *The Torture Papers*, p. 909.

made over 200 allegations of ill-treatment of prisoners of war in May 2003; they made another fifty allegations regarding ill-treatment at Camp Cropper alone in July 2003.⁸ And human rights researchers have tracked more than 330 accusations of abuse against more than 460 detainees since 2001, involving more than 600 U.S. military and civilian personnel.⁹ The catalogue of abuse revealed in these and other reports has been corroborated in a number of subsequent legal trials, as well as in the more than 1,800 photographs and nearly 100 videos of prisoner abuse now held by army investigators.¹⁰

Importantly, allegations of human rights abuses have not been confined to American forces; British, Danish, Iraqi, and Afghan forces have also been accused of abusing detainees and a number of British and Danish soldiers have since gone on trial for serious crimes against prisoners. Journalistic and legal investigations, backed up by photos, videos, and prisoner testimonies, further corroborate the official and non-governmental findings,¹¹ but also reveal a great many other instances of abusive behaviour and human rights violations unacknowledged by administration officials or purportedly still under official investigation. For example, information gathered by journalists and lawyers – and now the subject of intense public debate among European politicians worried about the extent of European involvement in the practice – suggests that an estimated 100-150 terrorist suspects have been secretly transported by the CIA on private jets to countries where legal and ethical restraints on torture are routinely flouted, such as Jordan, Egypt, Morocco, and Syria.¹² Frequently, under the direction of American (and sometimes British) intelligence agents, prisoners have suffered months of severe torture followed in some cases by execution or disappearance. This is the long-running¹³ and strictly illegal practice by American intelligence of torture by proxy, euphemistically termed ‘extraordinary rendition’. The case of Maher Arar, a Syrian-born Canadian engineer, is instructive: arrested up while in transit through New York, Arar was secretly transported to Syria via Italy and Jordan where he was subjected to sustained torture for a

⁸ Reed Brody, ‘The Road to Abu Ghraib’ in Meerpol, *America’s Disappeared*, p. 123.

⁹ ‘Report: Detainee abuse claims not investigated in full’, CNN.com, April 26, 2006, URL: <http://www.cnn.com/2006/US/04/26/detainee.report/index.html>.

¹⁰ Rajiva, *The Language of Empire*, p. 54.

¹¹ See for example, ‘One Year After the Abu Ghraib Torture Photos: U.S. Government Response “Grossly Inadequate”’, *Human Rights First*, April 26, 2005, available online at: http://www.humanrightsfirst.org/us_law/etn/statements/abu-yr-042605.htm, accessed July 11, 2005; David Rose, *Guantánamo: America’s War on Human Rights*, (London, 2004); Seymour Hersh, *Chain of Command: The Road from 9/11 to Abu Ghraib* (London, 2004); David Cole, *Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism*, (New York, 2003); Rajiva, *The Language of Empire*; Meerpol, *America’s Disappeared* – among others.

¹² This figure is documented by Human Rights First, who also claim that there have been at least 11 secret detention locations used since September 11. Human Rights First, *End Torture Now Campaign*, ‘Torture: Quick Facts’, available online at: http://www.humanrightsfirst.org/us_law/etn/misc/factsheet.htm, accessed 3 March, 2006.

¹³ In testimony to the 9/11 Commission, George Tenet, then director of the CIA, stated that in an unspecified period *before* September 11, 2001, America had undertaken more than 70 such renditions. See Steven Watt, ‘Torture, “Stress and Duress,” and Rendition as Counter-Terrorism Tools’ in Meerpol, *America’s Disappeared*.

year, until Syrian officials concluded that he was innocent of any involvement in terrorism and released him.¹⁴

If we assume that the officially reported and documented abuses represent only a small proportion of the total cases, as criminologists argue in regards to the statistics on rape and child abuse for example, then it seems reasonable to suggest that torture has been far more widely practiced than administration officials are willing to admit.¹⁵ This is the conclusion of an American Bar Association report which stated that ‘The American public still has not been adequately informed of the extent to which prisoners have been abused, tortured, or rendered to foreign governments which are known to abuse and torture prisoners.’¹⁶ In a similar vein, the Detainee Abuse and Accountability Project concluded: ‘It has become clear that the problem of torture and other abuse by U.S. personnel abroad was far more pervasive than the Abu Ghraib photos revealed – extending to numerous U.S. detention facilities in Afghanistan, Iraq, and at Guantanamo Bay, and including hundreds of incidents of abuse.’¹⁷ In short, there is an emerging consensus among some commentators that ‘torture has become a core tactic in the war on terror’.¹⁸

Disturbingly, a number of public officials and media commentators in America have suggested that the publicly exposed abuse of prisoners falls far short of what the legal and public understanding of ‘torture’ entails, and that at most it constitutes ‘torture lite’ or isolated instances of degrading and abusive treatment.¹⁹ Such a position is untenable however, given the types of violent assault prisoners have been subjected to: casual and serious beatings which in some cases resulted in death, including with a broomstick and pistol-whipping; the insertion of lighted cigarettes into prisoner’s ears; prolonged hooding; transportation in unventilated boxes and in painful restraints; sleep deprivation; sensory deprivation by exposure to bright lights and loud music; threats of removal to countries where they are likely to face torture and death; prolonged restraint in so-called ‘stress’ positions; being kept naked and bound for days at a time; prolonged solitary confinement; the deliberate and sustained use of electric shock equipment against prisoners, including on prisoners’ genitals; the denial of medical treatment, including to a prisoner who had been shot; the pouring of phosphoric acid over prisoners’ genitals; the unleashing of attack dogs on naked prisoners; pouring cold water on naked detainees; ‘water boarding’ in which prisoners are forcibly submerged under water and made to believe they will drown; the sodomy of prisoners with chemical lights and broomsticks; rape and its threat; other forms of sexual humiliation and ritual domination; the

¹⁴ The story of Maher Arar is detailed in Jane Mayer, ‘Outsourcing Torture’, *New Yorker*, February 14, 2005, available online at: <http://www.nytimes.com/2005/03/06/politics/06intel.html>, accessed March 8, 2005.

¹⁵ It is important to note that many of the official reports themselves, including the ICRC report, state that the abuses recorded are not meant to be exhaustive lists, but merely illustrative of the kinds of behaviour they discovered.

¹⁶ ‘American Bar Association Report to the House of Delegates’, August 2004, in Greenberg and Dratel, *The Torture Papers*, p. 1134.

¹⁷ ‘Report: Detainee abuse claims not investigated in full’, CNN.com.

¹⁸ Alex Belamy, 2006. ‘No Pain, No Gain? Torture and Ethics in the War on Terror’, *International Affairs*, 82(1): p. 147.

¹⁹ Donald Rumsfeld insisted that what the Abu Ghraib prisoners suffered was not ‘technically’ torture, but only ‘abuse’. Quoted in David Sussman, ‘What’s Wrong with Torture?’, *Philosophy & Public Affairs*, vol. 33, no.1 (2005), p. 1.

mutilation of corpses; and murder²⁰ – among others.²¹ Such practices, particularly ‘waterboarding’, have been standard practice for the most notorious torture regimes for decades and cannot in any way be considered ‘torture lite’.

Official Complicity in Torture

Based on the extensive public record, including the paper trail of policy and legal deliberations regarding the obstacles to employing more intensive forms of interrogation between the Pentagon, the white house, and the Justice Department, we now know that senior administration officials made a deliberate decision to employ torture as a counter-terrorism strategy in late 2001. Journalistic investigations have revealed that in the immediate aftermath of the terrorist attacks, senior administration officials agreed that fighting al Qaeda would involve a no-holds-barred approach which could entail employing distasteful methods, such as employing foreign intelligence services to gain confessions by torture if necessary,²² or utilizing coercive and abusive interrogation techniques directly.²³ Consequently, President Bush signed a top-secret finding in late 2001 or early 2002 authorizing the Defense Department to set up a specially recruited clandestine team of operatives to snatch or assassinate ‘high value’ al Qaeda operatives anywhere in the world who would then be interrogated secretly and in ways unconstrained by legal limits or public disclosure.²⁴ This was the origin of the administration’s rendition program, in which hundreds of terrorist suspects have so far been captured or kidnapped in dozens of different countries and transported to Guantánamo Bay or to third countries like Syria, Jordon, Egypt, and Singapore for interrogation. This initial authorization for a secret ‘dirty war’ against terrorists was

²⁰ In a submission to the UN Committee Against Torture, Amnesty International stated: ‘It is known that at least 34 detainees who died in US Custody have had their deaths listed by the army as confirmed or suspected criminal homicides.’ They go on to suggest that the true number may be much higher due to delays, cover-ups, and deficiencies in investigations. See Amnesty International, ‘USA: Amnesty International’s Supplementary Briefing to the UN Committee Against Torture’, AI Index: AMR 51/061/2006, 3 May, 2006, available online at: <http://web.amnesty.org/library/index/engamr510612006>, accessed 20 May, 2006. Human Rights First claim that 45 detainees have died in US custody due to suspected or confirmed criminal homicides, with at least 8 having been tortured to death. Human Rights First, ‘Torture: Quick Facts’.

²¹ Examples of these kinds of abuses are documented in the following reports: ‘The Depositions: The Prisoners Speak, Sworn Statements by Abu Ghraib Detainees’; ‘Report of the International Committee of the Red Cross (ICRC) on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons by the Geneva Conventions in Iraq During Arrest, Internment and Interrogation’, February 2004; ‘The Taguba Report’, March 2004; ‘The Mikolashek Report’, July 2004; ‘The Schlesinger Report’, August 2004; ‘Vice Admiral Albert Church III’s Brief on Investigation into Allegations of Abuse of Prisoners at Guantánamo Bay’, May, 2004; and the ‘Fay/Jones Report’, August 2004, in Danner, *Torture and Truth* and Greenberg and Dratel, *The Torture Papers*. See also, Rajiva, *The Language of Empire*.

²² See Bob Woodward, *Bush at War* (New York: Pocket Books, 2003), pp. 74-78.

²³ See Hersh, *Chain of Command*, pp. 49-50. See also Mark Danner, ‘Abu Ghraib: The Hidden Story’, *The New York Review of Books*, October 7, 2004, available online at: http://www.markdanner.com/nyreview/100704_abu.htm, accessed 3 April, 2006.

²⁴ *Ibid*, p. 16.

quickly institutionalized as an ‘unacknowledged’ special-access program (SAP) in the Defense Department known inside the intelligence community as ‘Copper Green.’²⁵

The important point is that this secret global program in which interrogators were authorized to use methods that went beyond legal limits was later extended to Iraq and Afghanistan as a means of combating the growing insurgencies there. It was in this context that individual prison guards received instructions from intelligence operatives to ‘set favorable conditions for subsequent interviews’²⁶ – a euphemism for breaking the will of prisoners, or ‘softening them up’. An official military investigation into prisoner abuse in Iraq acknowledged that ‘There was a perception among the guard personnel that this type of behavior by the interrogators was condoned by their chain of command.’²⁷ Similarly, the Taguba Report concluded that ‘personnel assigned to the 372nd MP Company, 800th MP Brigade were directed to change facility procedures to “set the conditions” for MI [Military Intelligence] interrogations.’²⁸ In other words, it seems likely it had already been decided at a senior level to extend the use of coercive and abusive interrogation methods – ‘any means necessary’ in the language of the presidential finding – to all theatres of the war against terrorism, and prison guards were encouraged to assist the information-extraction process by using torture and cruel, inhumane, and degrading treatment to psychologically prepare the prisoners for questioning.

Importantly, it can be easily demonstrated how such forms of abuse are carefully calculated for strategic reasons, rather than being random or pointless sadism. There is an extremely large literature detailing the strategic logic of employing torture and conspicuous human rights abuses in situations of asymmetric war²⁹ – as a means of preventing civilian defection to the enemy, for example. More specifically, there is evidence that the sexual humiliation³⁰ seen in the Abu Ghraib photographs was deliberately conceived as a culturally-specific method of breaking down the psychological resistance of Iraqi detainees; military and intelligence officials believed that Arabs were particularly vulnerable to sexual humiliation due to cultural conditioning.³¹ In addition to their role as trophies and the added humiliation for the

²⁵ Ibid, p. 46. See also, ‘USA: Amnesty International’s Supplementary Briefing to the UN Committee Against Torture’.

²⁶ ‘The Ryder Report’, quoted in Hersh, *Chain of Command*, p. 28. See also Rose, *Guantanamo*, pp. 87-8.

²⁷ ‘The Mikolashek Report’, July 2004, in Greenberg and Dratel, *The Torture Papers*, p. 655.

²⁸ ‘The Taguba Report’, March 2004, in Danner, *Torture and Truth*, p. 294.

²⁹ See among many others, Roger Beaumont, ‘Small Wars: Definitions and Dimensions’, *Annals of the American Academy of Political and Social Sciences*, vol. 541 (Small Wars), (1995), pp. 20-35; Stathis Kalyvas, ‘Wanton and Senseless? The Logic of Massacres in Algeria’, *Rationality and Society*, vol. 11, no.3 (1999), pp. 243-85; M. L. R. Smith, ‘Guerillas in the Mist: Reassessing Strategy and Low Intensity Warfare’, *Review of International Studies*, vol. 29 (2003), pp.19-37; Paul Richards, *Fighting for the Rain Forest: War, Youth, and Resources in Sierra Leone* (Oxford: James Currey, 1996).

³⁰ Humiliation, particularly a vast array of types of sexual humiliation, is common to torture the world over. In part, this is because ‘torture forces its victim into the position of colluding against himself (sic) through his own affects and emotions, so that he experiences himself as simultaneously powerless and yet actively complicit in his own violation. So construed, torture turns out to be not just an extreme form of cruelty, but the pre-eminent instance of a kind of forced self-betrayal, more akin to rape than other kinds of violence.’ Sussman, ‘What’s Wrong with Torture?’, p. 4.

³¹ Various commentators note that senior administration officials were greatly influenced by *The Arab Mind*, a book on Arab culture and society published by Raphael Patai in 1973. The book includes a long chapter on Arab attitudes towards sex, concluding that sexual subjects are a cultural taboo invested with shame in Arab society. This academic ‘knowledge’ was then used to fashion the sexual humiliation

detainees of being photographed, the evidence also suggests that photographing the abuses was itself a strategic decision: it was thought that some prisoners could be induced to spy on their associates to avoid dissemination of the shameful photographs to their friends and family.³² Similarly, the iconic image of the hooded man standing on a box with electrical wires attached to his hands was more than simply cruel theatre: keeping a person in this position for several hours functions as both a form of ‘sleep deprivation’ and a ‘stress position’.³³ It seems likely therefore, that this particular case of torture was one of many creative, but ultimately banal, attempts by the prison guards to put into practice approved techniques for ‘setting the conditions’ for military interrogation.

The argument that it was a deliberate and calculated policy is also buttressed by the evidence contained in the paper trail of the administration’s internal debates over the legality of such practices.³⁴ The internal memos between the Justice Department and the administration reveal that senior administration officials deliberately chose Guantánamo as a site for prisoner confinement and interrogation specifically because it was believed to afford a degree of legal protection from the reach of American and international courts.³⁵ In addition, the Justice Department advice to the white house strongly indicates that the administration had already decided on the policy and was looking for legal justification, as well as legal protection, for employing methods that they knew went beyond national and international legal restrictions.³⁶ Importantly, the official record also reveals that a number of senior white house officials, senior military officers, FBI agents, Pentagon advisors, and other intelligence operatives, cautioned against adopting such practices for a range of compelling reasons, including that it could undermine the legal protection of American troops in theatres of war.³⁷

Explanations for Torture

A frequently heard explanation of the torture and abuse of prisoners in Iraq, particularly from administration officials, is that they were the actions of a very small group of ill-disciplined individuals, who even if they had been instructed to ‘set the conditions’ for prisoner interrogation, clearly went far beyond acceptable standards of military behavior.

strategies vividly portrayed in the Abu Graib photographs. See Hersh, *Chain of Command*, pp. 38-39. In addition, Lynndie England stated that the photos were taken deliberately for psy-op reasons. Quoted in Rajiva, *The Language of Empire*, p. 79.

³² Ibid.

³³ Carter, ‘The Road to Abu Ghraib’.

³⁴ The construction of the legal defence of torture is analysed in some detail in: Anthony Lewis, ‘Introduction’, in Greenberg and Dratel, *The Torture Papers*; David Luban, ‘Liberalism, Torture, and the Ticking Time Bomb’, David Bowker, ‘Unwise Counsel: The War on Terrorism and the Criminal Mistreatment of Detainees in U.S. Custody’, and Noah Feldman, ‘Ugly Americans’, all in Greenberg, *The Torture Debate in America*.

³⁵ According to a senior Pentagon official, Guantánamo Bay was chosen precisely because it was seen to have a low risk of litigation by virtue of its unique location and legal status. Rose, *Guantánamo*, p. 33.

³⁶ As Anthony Lewis put it, administration lawyers ‘were asked how far interrogators could go in putting pressure on prisoners to talk without making themselves, the interrogators, liable for war crimes.’ Lewis, ‘Introduction’, in Greenberg and Dratel, *The Torture Papers*, p. xiii.

³⁷ See administration memoranda in Greenberg and Dratel, *The Torture Papers*, pp. 122-33; Rose, *Guantánamo*, p. 95; Lewis, ‘Introduction’, in Greenberg and Dratel, *The Torture Papers*, p. xvi; Hersh, *Chain of Command*, pp. 6-7, 13-14, 42-43, 60-62; and Watt, ‘Torture, “Stress and Duress,”’ in Meerpol, *America’s Disappeared*, p.76.

It is true that many of the guards at Abu Ghraib were poorly trained private security contractors and reservists, while others had poor work and discipline records. The Pentagon admitted in an internal report that many of its intelligence officers in Afghanistan had received little or no training.³⁸ Similarly, military investigations into the abuses in Iraq identify poor training, along with weak leadership and oversight, as one of the key explanatory variables for the abuse of prisoners.³⁹ Individual inexperience clearly does play a role in some instances of torture, especially when vetting processes of prison guards fail, training is inadequate, and supervision is lax. However, such a simplistic explanation cannot stand alone; the abuses were far too widespread, strategically conceived, and systematically administered to be the work of a few ‘bad apples’.

Another explanatory perspective on torture derives from social-psychology, particularly a number of experiments undertaken in the 1970s, as well as evidence from prisoner of war camps and military training simulations. Stanley Milgram for example, demonstrated how easy it was to persuade ordinary people to cause severe pain in others, especially when ordered to do so by an authority figure.⁴⁰ The diffusion of responsibility through multiple and overlapping layers of authority can also contribute to such abuses by magnifying this effect. The Stanford Prison Experiment in 1971 by psychologist Philip Zimbardo found that when ordinary people are given absolute power over others they very quickly become sadistic and abusive towards their captives, particularly in the presence of weak supervision regimes and the toleration of minor abuses in the early stages. Military research in war resistance training similarly demonstrates that regardless of how good the training and oversight, some inappropriate behavior from guards will always occur in a prisoner situation.⁴¹ Related to this, a shortage of troops in Iraq led to chaotic and disorganized detainee operations and a very low ratio of military police to the number of inmates at Abu Ghraib.⁴² This situation created gaps in oversight, as well as stress in the under-staffed prison guards. In other words, the instructions given by authority figures in Iraq and elsewhere to ‘set the conditions’ for interrogation, combined with the group dynamics of a stressful social situation in which prison guards had absolute control over the bodies of the inmates, likely reduced the behavioral constraints that might have prevented incidents of torture.

It can also be argued that the brutalization of soldiers during training likely plays a key role in de-sensitizing soldiers to physical and psychological violence against detainees. That is, subject to de-personalization, uniforms, lack of privacy, lack of sleep, disorientation, punishing physical regimes, harsh and often capricious punishments, and violent hazing rituals, soldiers come to accept arbitrary and frequently sadistic violence

³⁸ Rose, *Guantánamo*, p. 45.

³⁹ A report in July 2004 for example, found that many prison guards did not have training specific to detainee handling, and a great many individuals involved in interrogation were not school-trained as interrogators. See ‘The Mikolashek Report’, July 21, 2004, in Greenberg and Dratel, *The Torture Papers*, p. 656.

⁴⁰ Discussed in Joanna Burke, *An Intimate History of Killing: Face-to-Face Killing in Twentieth-Century Warfare* (Great Britain: Basic Books, 1999), p. 185.

⁴¹ ‘The Mikolashek Report’, July 2004, in Greenberg and Dratel, *The Torture Papers*, p. 653.

⁴² Phillip Carter, ‘The Road to Abu Ghraib’, *The Washington Monthly*, November 2004, available online at: <http://www.washingtonmonthly.com/features/2004/0411.carter.html>, accessed July 11, 2005.

as normal to military life.⁴³ This is a crucial component of the training process which is necessary for transforming ordinary people into disciplined soldiers capable of killing on command; overcoming social and psychological inhibitions to committing violence against other human beings actually requires a carefully formulated and sustained training program over several months.⁴⁴ It is more than a coincidence that many of the abuses recorded in Iraq mirror the treatment meted out to recruits as part of their training and initiation into military life.

A related element is the ubiquitous and deliberate use of the September 11, 2001 attacks as a source of motivation for American military personnel. The military have always employed propaganda about the grievous wrongs of the enemy to inspire and motivate its soldiers; during World War II for example, the attack on Pearl Harbor was deliberately used to instill hatred towards the Japanese among new recruits. In the war on terror, US military recruitment and training films frequently employ images of 9/11, and posters and monuments to the attacks abound at the American base in Guantánamo Bay,⁴⁵ among others. It seems likely that the constant reminders of the atrocities functions to sustain anger and hatred towards America's enemies, and to de-sensitize soldiers to the suffering of 'terrorist' suspects. Considering the large numbers of Americans who continue to believe that Iraq was involved in the terrorist attacks,⁴⁶ hatred and anger towards Iraqi detainees in particular, is unsurprising.

Another explanatory perspective focuses on the historical continuities in American counter-insurgency practice, domestic prisoner management, and the treatment of immigrants. The argument here is that earlier practices in other arenas act as a discursive learning process, and that over time the language and practice of prisoner management has become embedded in institutional knowledge and practice, standard operating procedures, and collective memory and popular culture.

In the first instance, the historical experience of American counter-insurgency demonstrates clear continuities in practice from the earliest colonial times. The Seminole wars in Florida for example, were characterized by classic dirty war tactics,⁴⁷ as was the war against the Dakota Sioux in 1862. During this campaign hundreds of prisoners were declared 'unlawful combatants' and subject to summary trial by military commission; some 38 were later executed.⁴⁸ More generally, the management of captured and defeated Native Americans during counter-insurgency and resettlement operations reveals numerous continuities with the treatment of insurgents in Iraq today. Later, the period of

⁴³ See Burke, *An Intimate History of Killing*, p. 67. Burke demonstrates that the methods used to train Western soldiers during World War I and II and the Vietnam War were very similar to those carried out in regimes where men were taught to torture prisoners. The difference between the two resided in the degree of violence involved, not its nature.

⁴⁴ See Dave Grossman, *On Killing: The Psychological Cost of Learning to Kill in War and Society* (New York: Little, Brown and Company, 1995).

⁴⁵ Rose, *Guantánamo*, p. 58.

⁴⁶ A Gallop poll in March 2003 found that 51 percent of Americans believed that Iraq was directly involved in the September 11, 2001 attacks. This figure has changed little in national polls since that time. See M. Kern, M. Just and P. Norris, 2003. 'The Lessons of Framing Terrorism', in M. Kern, M. Just and P. Norris, eds., *Framing Terrorism: The News Media, the Government, and the Public*, New York: Routledge, p. 302.

⁴⁷ Ian Beckett, *Modern Insurgencies and Counter-Insurgencies: Guerillas and the Opponents since 1750* (New York, Routledge, 2001), pp. 29-30.

⁴⁸ Rose, *Guantánamo*, pp. 138-140.

American colonial rule in the Philippines witnessed 117 verifiable atrocities against Filipino civilians between 1898 and 1902 – at the cost of thousands of lives.⁴⁹ Similar practices characterized anti-communist counter-insurgency during the cold war. The Phoenix program in Vietnam for example, employed assassination and torture as a means of rooting out Viet Cong agents, leading to the deaths of some 25,000 suspected Vietcong.⁵⁰

The Church Commission in 1975, established by the Senate Committee on Intelligence, found that in addition to the abuses in Vietnam, the CIA had been involved in comparable activities in other parts of the world, notably Latin America.⁵¹ Counter-insurgent interrogation approaches developed in Vietnam were subsequently exported to Latin America via the notorious School of the Americas (since renamed the Western Hemisphere Institute for Security Cooperation). Training manuals from this period, notably the ‘KUBARK Counterintelligence Interrogation Manual, July 1963’, and its successor, the ‘Human Resource Exploitation Training Manual, 1983’, detail very similar kinds of techniques to those currently employed in the war on terrorism.⁵² During America’s first war against terrorism declared by Ronald Reagan, illegal rendition, torture, and murder were also employed against Middle East terrorist suspects.⁵³ From a historical perspective then, the abuses in Iraq and elsewhere follow a long-established path in American counter-insurgency doctrine and practice. This is not to say that the American experience is in any way unique among Western states; systematic and widespread human rights abuses were regularly used against suspected insurgents during colonial counter-insurgency in the Congo, Namibia, Malaya, Cyprus, Kenya, Indochina, and most notoriously, Algeria,⁵⁴ as well as during the conflict in Northern Ireland. Similarly, recent evidence has emerged showing extreme torture and abuse of suspected communists, Soviet agents, suspected Nazis, and members of the SS by British forces in special interrogation centres in Germany at the end of World War II.⁵⁵

The abuses enacted against prisoners in Iraq also follow well-established and long-term practices in domestic approaches to prisoner management, particularly in American supermaximum or ‘supermax’ prisons which are designed for the most dangerous felons. Amnesty International reports that more than 20,000 prisoners are currently held in more than 40 ‘supermax’ prisons across America in conditions of long-

⁴⁹ Beckett, *Modern Insurgencies and Counter-Insurgencies*, p. 38.

⁵⁰ See Douglas Valentine, *The Phoenix Program* (Lincoln: iUniverse.com, Inc., 1990, 2000); and Ibid, pp. 201-2. See also, Burke, *An Intimate History of Killing*. Evidence of atrocities by US forces in Vietnam, including the use of torture, continues to emerge. See, for example, Michael Sallah and Mitch Weiss, *Tiger Force: A True Story of Men and War* (New York: Little, Brown and Co., 2006).

⁵¹ See Loch Johnson, *America’s Secret War: The CIA in a Democratic Society* (Oxford: Oxford University press, 1989).

⁵² See ‘Prisoner Abuse: Patterns from the Past’, *National Security Archive*, Electronic Briefing Book No.122, The George Washington University, available online at: <http://www.gwu.edu/~narchive/NSAEBB/NSAEBB122/>, accessed June 1, 2005. See also, Doug Stokes, *America’s Other War: Terrorizing Colombia* (Zed Books, 2004).

⁵³ See David Wills, *The First War on Terrorism: Counter-Terrorism Policy During the Reagan Administration* (Lanham: Rowman & Littlefield, 2003).

⁵⁴ See Beckett, *Modern Insurgencies and Counter-Insurgencies*, pp. 24-51. Bellamy, ‘No Pain, No Gain?’, pp. 139-40, summarises a number of studies on the extensive use of torture against Algerian insurgents by French forces.

⁵⁵ ‘Revealed: Victims of UK’s cold war torture camp’, *The Guardian*, 3 April, 2006.

term social isolation, extreme sensory deprivation, permanently lit cells, highly restricted exercise, severe forms of shackling, and harsh discipline.⁵⁶ Journalistic investigations also reveal widespread and often systematic abuse of prisoners in the wider American penal system, with inhumane and dangerous forms of manacling, excessive use of chemical agents to punish and subdue prisoners, severe punishment regimes, shackling of pregnant women, ill-treatment of children and youth, and the like. It thus appears that many of the prisoner management practices developed in America's domestic prisons have been transferred to the operating practices of the war on terror.⁵⁷ In fact, in many cases, prison guards in Iraq have had previous experience in the domestic penal system.⁵⁸

Lastly, the way that many immigrants have been treated by the authorities also reveals striking discursive continuities with the war on terror, particularly after the terrorist attacks when thousands were caught up in a general sweep by the authorities. Interestingly, prior to September 11, 2001, Guantánamo Bay was used as a detention center for Haitian and Cuban refugees; they too were held for extended lengths of time without access to lawyers or judicial processes, often in appalling conditions. As with the Camp Delta detainees, the site was chosen because it was considered to be beyond the reach of domestic courts.⁵⁹ Official documents reveal that on any given day, over 20,000 'immigration detainees' languish in American federal, state, county, and private prisons, often in deplorable and inhuman conditions similar to those reserved for 'supermax' prisoners, and often without access to legal counsel.⁶⁰ Moreover, according to an Office of the Inspector General (OIG) report in December 2003, post-9/11 immigration detainees have been the systematic and frequent victims of physical brutalities such as: slamming, bouncing, and ramming detainees against walls; bending detainees' arms, hands, wrists, and fingers; pulling and stepping on detainees' restraints to cause pain; the improper use of restraints; and rough and inappropriate handling.⁶¹ This is in addition to the psychological suffering induced by social isolation, indefinite detainment, lack of legal representation, and the like.

Related to these historical experiences, American prisoner interrogation and management approaches have always employed a sanitized language that functions to obscure the physical and psychological effects of the material practices on the bodies of detainees. Just like the specialized military language of 'collateral damage', 'surgical strikes', and 'daisy-cutters', the interrogator's euphemistic language of 'counter-resistance strategies', 'stress and duress' techniques, 'non-injurious physical contact', 'stress positions', 'forced grooming', 'ego down techniques', 'rendition', 'legitimate force', and the like, functions to emotionally distance both the interrogator and the wider

⁵⁶ Rachel Meerpol, 'The Post-9/11 Terrorism Investigation and Immigration Detention', in Meerpol, *America's Disappeared*, pp. 149-50. Amnesty International documents its concerns about widespread abuse in the prison system and supermax prisons in particular, most recently in its report, 'USA: Amnesty International's Supplementary Briefing to the UN Committee Against Torture'. See also Rajiva, *The Language of Empire*, pp. 81-3, 166-7.

⁵⁷ See James Meek, 'People the Law Forgot', *The Guardian* (December 3, 2003), available online at: <http://www.guardian.co.uk/print/0,3858,4810625-111575,00.html>, accessed December 4, 2003.

⁵⁸ Charles Graner for example, one of the Abu Ghraib torturers, was formerly employed at the maximum security Greene Correctional Facility in Pennsylvania; Ivan Frederick, another Abu Ghraib guard, worked for the Virginia State prison system for seven years.

⁵⁹ Michael Ratner, 'The Guantánamo Prisoners,' in Meerpol, *America's Disappeared*.

⁶⁰ Meerpol, 'The Post-9/11 Terrorism Investigation', in Meerpol, *America's Disappeared*, p. 144.

⁶¹ *Ibid*, p. 153.

public from the human pain and suffering involved in these practices, thereby facilitating the practice of torture.⁶²

Therefore, from a broader historical and institutional perspective, the abuses in Iraq come as no surprise. Across all American security institutions, from the prison service to the immigration service, to the CIA and the military, the harsh and often brutal treatment of prisoners is no more than standard practice and not at all uncommon. In this sense, the discursive foundations for the abuses of the war on terrorism were firmly established long before the Abu Ghraib scandal broke; the abuse was reflexive of institutional language and culture.

Political Language and the Construction of Torture

A factor notable for its absence in most discussions of the causes of torture in the war on terrorism is the role of political language or discourse,⁶³ particularly by leaders. In this section, I will attempt to argue that a focus on the discourse of policy elites is crucial for understanding the torture scandal for two main reasons: first, discourses set the logic and possibilities of policy formulation; and second, they create the wider legitimacy and social consensus that is required to enact policy – they permit the construction of a torture sustaining reality.⁶⁴ We can observe both these processes in the war on terrorism.

The Discourse-Policy Connection

From a policy perspective, discourse consists of the language, texts, symbols, and narratives that policy actors use in their communication with each other, and with the public in their efforts to generate and legitimise a policy programme. Discourses provide the basis on which policy preferences, interests and goals are constructed. Narratives – the public stories that provide coherence and consistency to the scenes, characters, and themes that guide the moral conduct of a society, and that provide meaning to the lives of the community's members – are also central to the process of formulating policy. The important point is that discourses are never neutral or objective; rather they are always an exercise in social power – the power to ascribe right and wrong, reasonable and

⁶² An extreme example of the employment of euphemistic language to obscure torture is the death of a prisoner in Afghanistan in December 2002 following severe beatings to his legs. In what is now a notorious case, the Army's lead investigator concluded that the man's lethal injuries were the result of the 'repetitive administration of legitimate force'. Tim Golden, 'Army Faltered in Investigating Detainee Abuse', *New York Times*, 22 May, 2005. Other examples of such euphemistic language used to talk about torture and abuse are discussed in Steven Poole, *Unspeak* (London: Little, Brown, 2006), pp. 163-89.

⁶³ Discourses are related sets of ideas employing a distinct set of vocabularies, rules, symbols, labels, assumptions, narratives, and various forms of social action. Discourses dictate what it is possible to say and not possible to say about a certain subject, what counts as normal, what is seen as commonsense, and what is accepted as legitimate 'knowledge'. There are many kinds of social discourses: media discourses, medical discourses, educational discourses, religious discourses, academic discourses, artistic discourses, bureaucratic discourses, and political discourses – among others. Useful texts examining the nature and analysis of discourse, including the analysis of political discourse, include Marianne Jorgensen and Louise Phillips, *Discourse Analysis as Theory and Method* (London: Sage, 2002); Jan Blommaert, *Discourse: A Critical Introduction* (Cambridge: Cambridge University Press, 2005); and Paul Chilton, *Analysing Political Discourse: Theory and Practice* (London: Routledge, 2004).

⁶⁴ Crelinsten, 'The World of Torture', p. 299.

unreasonable, knowledge and falsehood, and the limits of commonsense. They set the parameters of debate and establish the boundaries for possible action. In this case, the torture policies that administration officials formulated and sanctioned emerged directly from the core narratives at the heart of the war on terrorism. It is important to note that I am not saying that interests were not central to the formulation of the torture policy; clearly, there was an overwhelming interest in gaining information that could be used to prevent another terrorist attack. The important point is that interests themselves are discursively constructed and reflect other discourses and narratives of national identity, threat, values, relationships, and the like.

A comparative analysis of the core narratives of the war on terrorism⁶⁵ and the main administration documents relating to the formulation and defense of the torture policy⁶⁶ clearly demonstrates how the language and narratives fed into the logic and parameters of the policy itself. For example, one of the administration's most important rhetorical moves was to construct the terrorist attacks as 'acts of war,' thereby invoking the nation's right to 'justified self-defense' based on international law. President Bush said that 'There has been an *act of war* declared upon America', while Under Secretary of State Marc Grossman stated that 'we believe the United States was attacked on the 11th of September and that we have a *right of self-defense* in this regard.'⁶⁷ This public discursive construction of the state of conflict – that the terrorist attacks constituted a state of war – immediately found its way into the key documents of the torture policy. The President's Military Order of November 13, 2001 for example, which denied captured al Qaeda and Taliban fighters protection under the Geneva Conventions stated: 'International terrorists, including members of al Qaida, have carried out attacks... on a scale that has created a *state of armed conflict* that requires the use of the United States Armed Forces.'⁶⁸ Similarly, legal advice from the Attorney General's office affirmed:

As we have made clear in other opinions involving *the war* against al Qaeda, *the nation's right to self-defense* has been triggered by the events of September 11. If a government defendant were to harm an enemy combatant during an interrogation in a manner that might arguably violate Section 2340A, he would be doing so in order to prevent further attacks on

⁶⁵ There is an extensive literature on the public language of the war on terrorism. See among others, Jackson, *Writing the War on Terrorism*; J. Collins and R. Glover, eds., *Collateral Language: A User's Guide to America's New War* (New York: New York University Press, 2002); E. Louw, 'The "War against Terrorism": A Public Relations Challenge for the Pentagon', *Gazette: The International Journal for Communication Studies*, vol. 65, no. 3 (2003), pp. 211-230; John Murphy, "'Our Mission and our Moment": George W. Bush and September 11', *Rhetoric and Public Affairs*, vol. 6, no. 4 (2003), pp. 607-632; Sandra Silberstein, *War of Words: Language, Politics and 9/11* (London: Routledge, 2002); P. Van Ham, 2003. 'War, Lies, and Videotape: Public Diplomacy and the USA's War on Terrorism', *Security Dialogue*, vol. 34, no. 4 (2003), pp. 427-444.

⁶⁶ The so-called 'Torture Memos', as well as correspondence, directives and reports relating to the torture policy have been published in Danner, *Torture and Truth*, Greenberg and Dratel, *The Torture Papers*, and Greenberg, *The Torture Debate in America*.

⁶⁷ George W. Bush Jr., 'Remarks at Camp David', September 15, 2001, and Marc Grossman, 'Interview of Under Secretary of State', Digital Video Conference, October 19, 2001, Washington, D.C., A trans-Atlantic digital interview with London-based journalists of Arab newspapers, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003. Emphasis has been added by the author in all direct quotations from administration speeches and memoranda.

⁶⁸ Military Order of November 13, 2001, Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism, in Danner, *Torture and Truth*, pp. 78-82.

the United States by the al Qaeda terrorist network. In that case, we believe that he could argue that his actions were justified by the Executive branch's constitutional authority *to protect the nation* from attack. This national and international version of *the right to self-defense* could supplement and bolster the government defendant's individual right.⁶⁹

In these texts we can observe a direct link drawn between the rhetoric of the terrorist attacks as acts of war, and the justification for employing illegal torture against 'enemy combatants'; it is a clear case of the discourse influencing the policy formulation process.

Another narrative central to the war on terrorism is the notion that both the terrorist threat and the kind of war they have initiated are 'new' and unprecedented, and that consequently, a 'new paradigm' is required to successfully defeat them (one that may involve jettisoning 'old' restrictions). In large part, this is a reflexive discursive strategy designed to overcome the inherent contradiction involved in declaring a 'war' (and invoking national self-defense on the basis of international law) whilst simultaneously denying the applicability of the laws of war to captured fighters. The rhetorical solution is to declare that it is a 'new kind of war' fought not by recognized soldiers but by 'enemy combatants.' For example, Bush frequently stated that the war against terrorism was '*a different kind of war that requires a different type of approach and different type of mentality*'; he added, 'All of us in government are having to adjust our way of thinking about *the new war*.'⁷⁰ Similarly, John Ashcroft argued that the unprecedented threat posed by terrorism required '*new laws against America's enemies*.'⁷¹ This language is deliberately employed to stress the unique circumstances of the war against terror; in such an unprecedented situation, it can easily be argued that the 'old' rules no longer apply.

This public language and the thinking it engendered similarly found its way into the policy process on coercive interrogations. A memorandum to the cabinet on the treatment of prisoners in the Afghan theatre for example, stated: '[T]he war against terrorism ushers in *a new paradigm*, one in which groups with broad, international reach commit horrific acts against innocent civilians, sometimes with the direct support of states. Our Nation recognizes that *this new paradigm* – ushered in not by us, but by terrorists – requires *new thinking* in the law of war...'⁷² This language directly echoed the administration's public rhetoric and set the discursive foundation for the policies that were to follow. In a memorandum for Alberto Gonzales, Assistant Attorney General Jay Bybee stated:

As you have said, the war against terrorism is a *new kind of war*. It is not the traditional clash between nations adhering to the laws of war that formed the backdrop for GPW

⁶⁹ Memorandum for Alberto R. Gonzales, Counsel to the President, from Jay S. Bybee, Re: Standards of Conduct for Interrogation under 18 U.S.C., August 1, 2002, in Danner, *Torture and Truth*, p. 155.

⁷⁰ George W. Bush Jr, 'Press Conference', The East Room, Washington, DC, October 11, 2001, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

⁷¹ John Ashcroft, 'Testimony to House Committee on the Judiciary', September 24, 2001, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

⁷² Memorandum for the Vice President, the Secretary of State, the Secretary of Defense, the Attorney General, Chief of Staff to the President, Director of Central Intelligence, Assistant to the President for National Security Affairs, and Chairman of the Joint Chiefs of Staff from President George W. Bush Jr., Humane Treatment of al Qaeda and Taliban Detainees, February 7, 2002, in Danner, *Torture and Truth*, pp. 105-7.

[Geneva Convention III on the Treatment of Prisoners of War]. The nature of *the new war* places a high premium on other factors, such as the ability to quickly obtain information from captured terrorists... In my judgment, this *new paradigm* renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions....⁷³

Similarly, in the report of a special working group on the legal and operation implications of detainee interrogations, it was suggested that:

Due to *the unique nature of the war* on terrorism in which the enemy covertly attacks innocent civilian populations without warning, and further due to the critical nature of the information believed to be known by certain of the al-Qaida and Taliban detainees regarding future terrorist attacks, it may be appropriate for the appropriate approval authority to authorize as a military necessity the interrogation of such unlawful combatants in *a manner beyond that which may be applied to a prisoner of war who is subject to the protections of the Geneva Conventions*.⁷⁴

In these texts, the logic and purpose of the reflexive language of the 'new' and 'different' war is clearly evident: because it is a fundamentally 'new' kind of conflict, a 'new paradigm' applies in which the previous limitations are rendered 'obsolete' and 'quaint', and interrogation may go beyond the protections of the Geneva Conventions. It is the logic of the discourse that drives the formation of the torture policy, rather than reasoned debate and consideration. This is in large part why the opposition to the policy from within the administration and the military was largely ignored and discounted.

Another narrative that was crucial for structuring the torture policy was the discursive construction of a massive and ubiquitous terrorist threat. Although understandable in the aftermath of the devastating September 11, 2001 attacks, the public language regarding the ongoing danger of terrorism was nonetheless hyperbolic in the extreme. For example, according to the administration, terrorism posed not just a threat of sudden violent death, but a 'threat to *civilization*', a 'threat to the very essence of what you do',⁷⁵ a 'threat to our *way of life*',⁷⁶ and a threat to 'the peace of *the world*'.⁷⁷ The Spokesman Coordinator for Counter-terrorism, Cofer Black, went even further: 'The threat of international terrorism *knows no boundaries*.'⁷⁸ Administration officials also suggested that the threat of terrorism was supremely catastrophic. Dick Cheney stated: 'The attack on our country forced us to come to grips with the possibility that the next time terrorists strike, they may well ... direct *chemical agents* or *diseases* at our

⁷³ Memorandum for Alberto R. Gonzales, August 1, 2002, pp. 83-87.

⁷⁴ Working Group on Detainee Interrogations in the Global War on Terrorism: Assessment of Legal, Historical, Policy, and Operational Considerations, April 4, 2003, in Danner, *Torture and Truth*, p. 188.

⁷⁵ Colin Powell, 'Remarks to the National Foreign Policy Conference', 26 October, 2001, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

⁷⁶ George W. Bush Jr, 'Address to a Joint Session of Congress and the American People', September 20, 2001, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

⁷⁷ George W. Bush Jr, 'State of the Union Address', January 29, 2002, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

⁷⁸ Cofer Black, Spokesman Coordinator for Counterterrorism, State Department, 'Press Conference for 2002 Annual Report "Patterns of Global Terrorism"', April 30, 2003, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

population, or attempt to detonate *a nuclear weapon* in one of our cities.’ He went on to normalize the threat: ‘[N]o rational person can doubt that terrorists would use such *weapons of mass murder* the moment they are able to do so.’⁷⁹ Administration officials then went to great lengths to explain how the same terrorists (who are apparently eager to use weapons of mass destruction) are also highly sophisticated, cunning, and extremely dangerous: ‘The highly coordinated attacks of September 11 make it clear that terrorism is the activity of *expertly organized, highly coordinated and well financed* organizations and networks’.⁸⁰ Moreover, officials argued that this was not a tiny group of dissidents. Instead, the president warned: ‘*Thousands of dangerous killers, schooled in the methods of murder, often supported by outlaw regimes, are now spread throughout the world like ticking time bombs, set to go off without warning*’.⁸¹

The language of the national emergency engendered by the attacks, and the ever-present and potentially catastrophic danger posed by terrorists, entered the torture policy debate immediately. For example, the threat of further terrorist attacks is referred to in the Military Order of November 13, 2001, primarily as a means of establishing that a ‘supreme emergency’ is in effect:

Individuals acting alone and in concert involved in international terrorism possess both the capability and the intention to undertake further terrorist attacks against the United States that, *if not detected and prevented, will cause mass deaths, mass injuries, and massive destruction of property, and may place at risk the continuity of the operations of the United States Government.* [...] Having fully considered *the magnitude of the potential deaths, injuries, and property destruction* that would result from potential acts of terrorism against the United States, and the probability that such acts will occur, I have determined that *an extraordinary emergency exists* for national defence purposes...⁸²

Similarly, in a direct echo of both the purported threat of weapons of mass destruction and the so-called ‘ticking time bomb’ theory, and as a means of pre-emptively legitimizing the use of coercive interrogation, the Attorney General’s office stated:

...al Qaeda has other *sleeping cells* within the United States that may be planning similar attacks. Indeed, al Qaeda plans apparently include efforts to develop and *deploy chemical, biological and nuclear weapons of mass destruction.* Under these circumstances, a detainee may possess information that could enable the United States to prevent *attacks that potentially could equal or surpass the September 11 attacks in their magnitude.* Clearly, any harm that might occur during an interrogation would pale to insignificance compared to the harm avoided by preventing such an attack, which could take *hundreds or thousands of lives.*⁸³

Importantly, this text reveals how the logic of the constructed terrorist threat determines the moral calculations at the heart of the torture policy: based on the popular ‘ticking

⁷⁹ Dick Cheney, Vice President, ‘Remarks to the American Society of News Editors’, The Fairmont Hotel, New Orleans, April 9, 2003, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

⁸⁰ John Ashcroft, ‘Testimony to House Committee on the Judiciary’.

⁸¹ Bush Jr, ‘State of the Union Address’.

⁸² Military Order of November 13, 2001.

⁸³ Memorandum for Alberto R. Gonzales, August 1, 2002, pp. 150-51.

bomb' myth⁸⁴ in which a terrorist has been captured after planting a bomb in a secret location, it is deemed morally expedient to torture the suspect in order to prevent an even greater evil from occurring.

In short, the evidence strongly suggests that the discourse of the war on terrorism was not simply an objective or neutral debate about policy options and interests. Rather, it functioned to structure the institutional deliberations and content of the policies themselves, establishing the core interests, knowledge, and possibilities for action. The broader discourse of American counter-terrorism therefore, must be considered an important factor in the overall explanation for the torture and abuses in Iraq and the wider war on terrorism.

The Social Construction of a Torture Society

Political discourses do a great deal more than simply set the foundations and limits of policy formulation within government. They also function to create the necessary political legitimacy and social consensus required to properly enact those policies; they help to construct a new kind of social reality. In this instance, in order to enact the agreed-upon torture policy, administration officials had to deconstruct existing social reality with its conventional morality prohibiting torture, and replace it with a new 'torture-sustaining' reality based upon a set of new morality-defining narratives. As Crelinsten puts it: 'to enable torture to be practiced *systematically* and *routinely*, not only do torturers have to be trained and prepared, but wider elements of society must also be prepared and, in a sense, trained to accept that such things go on.'⁸⁵ The process of reality construction involves producing a series of powerful narratives that are then endlessly reproduced across every sector of society until they become widely accepted as legitimate 'knowledge'. In the case of a torture-sustaining reality, two main kinds of narratives are required: first, a powerful, threatening enemy must be constructed in order to justify the use of extraordinary measures against them; and second, the enemy must be dehumanized to render them deserving of their fate. I argue that this kind of social preparation or training is exactly what has taken place in the war on terrorism: an exceedingly powerful discourse about evil, inhuman terrorists and the catastrophic threat they represent has come to dominate American society in unprecedented ways. Consequently, members of the American public and the armed forces have come to accept the necessity and morality of torturing and abusing terrorist suspects.

The public discourse of the war on terrorism is made up of a number of core narratives, including: the 9/11 attacks were an 'act of war' similar to the attack on Pearl Harbor (rather than a criminal act, for example); the terrorist threat was new and unprecedented, global in scope, and potentially catastrophic to America and the civilized world; the terrorists were ruthless, evil, and inhuman enemies, while Americans were good, peace-loving, heroic, and united; and the 'war on terrorism' was a quintessential

⁸⁴ The 'Ticking Bomb' scenario is analysed in a great many articles and books, including Luban, 'Liberalism, Torture, and the Ticking Bomb'.

⁸⁵ Crelinsten, 'The World of Torture', p. 295. Original emphasis. Curt Goering, Senior Deputy Executive Director of Amnesty International USA, expressed it another way; he accused the US government of 'creating a climate in which torture and other ill-treatment can flourish'. 'US: Government creating "climate of torture"', Amnesty International Press Release, 3 May, 2006, available at: <http://web.amnesty.org/library/index/ENGAMR510702006>, accessed 5 May, 2006.

‘good war’ (in the same way that World War II and the cold war were) designed to bring the perpetrators to justice and make the world safe.⁸⁶ These narratives were established across American politics and society and consequently within the American military, through their daily repetition,⁸⁷ their relatively unmediated transmission to the public via the mainstream media,⁸⁸ and their amplification through other social institutions. Recent studies show how the core narratives of the war on terrorism have been reproduced culturally across virtually every aspect of society: churches, religious broadcasting, teaching in schools and universities, popular fiction and non-fiction, children’s books, television entertainment, newspapers, movies, documentaries, websites, think-tanks, popular music, computer games, cartoons, comic books, and a great many other discursive processes, have all replayed and reproduced the core narratives in popular form.⁸⁹ It is important to note that the discourse of the war on terrorism was not necessarily new and did not arise solely in response to the attacks of September 11, 2001; rather, it drew upon a deeply embedded set of narratives about terrorism that had been popularized since the 1980s.⁹⁰

In addition to the cultural dimension, the central narratives of the war on terrorism were reproduced across the political sphere when they were institutionalized and discursively embedded in: new legislation like the Patriot Act; new institutions like the Department of Homeland Security; reforms to the police, the security services, the Coast Guard, the immigration authorities, the prison service, the emergency services, and others; and vast numbers of departmental reports, strategy documents, internal memos, letters, and standard operating procedures across a multitude of government bodies. The narratives have been given further symbolic expression through anti-terrorism measures across virtually all aspects of social life, including the ubiquitous security checks on public transport, public gatherings, and access to government buildings, as well as new banking regulations, immigration procedures, public physical barriers, public readiness and information gathering programs, and daily terrorist threat warnings. Such practices function to underline the ‘reality’ of the terrorist threat. Lastly, the central narratives were

⁸⁶ These narratives are explored in some detail in Jackson, *Writing the War on Terrorism*.

⁸⁷ Senior administration officials gave more than six thousands of speeches, interviews, and radio broadcasts on the war against terrorism between September 11, 2001 and January 2004, averaging around 10 per day over the entire period. In the first 26 days after September 11 to October 6, President Bush alone gave more than 50 public statements on terrorism, most with extensive media coverage; in the month from October 7 to December 7, he made 76 public statements. See Jackson, *Writing the War on Terrorism*, p. 163 and Brigitte Nacos, *Mass-Mediated Terrorism: The Central Role of the Media in Terrorism and Counterterrorism* (New York: Rowman & Littlefield, 2002), pp. 148-49.

⁸⁸ See Rajiva, *The Language of Empire*.

⁸⁹ Stuart Croft has extensively detailed the ways in which American popular culture reproduced and re-transmitted the core narratives, symbols, and labels of the war on terrorism. See Stuart Croft, *Culture, Crisis and America’s War on Terror* (Cambridge: Cambridge University Press, 2006). See also Jackson, *Writing the War on Terrorism*.

⁹⁰ See Joseba Zulaika and William Douglass, *Terror and Taboo: The Follies, Fables, and Faces of Terrorism* (New York and London: Routledge, 1996). Carol Winkler goes further, arguing that through long-term and extensive usage in the political and cultural spheres, terrorism now constitutes a negative ideograph in American culture. An ideograph is a collective term of everyday political discourse that defines foundational cultural values, such as democracy, liberty, and justice; a negative ideograph defines society through negation, branding unacceptable behaviour. See Carol Winkler, *In the Name of Terrorism: Presidents on Political Violence in the Post-World War II Era* (New York: State University of New York Press, 2005).

reinforced by a series of highly publicized actions by the administration in the initial stages of the new war. For example, during Operation Enduring Freedom, Donald Rumsfeld openly stated that he would prefer it if Taliban and al Qaeda fighters were killed rather than be allowed to surrender; the Special Forces operating in Afghanistan were then given authority to kill on sight. Combined with the Military Order of November 13, 2001 in which combatants in Afghanistan were denied protection under the Geneva Conventions, these actions sent a powerful message to troops in the field (and the wider public at home) about how the lives of the enemy should be regarded. The American government also arrested thousands of suspects after September 11, 2001, denying them even the most basic of civil and legal rights, which sent another powerful discursive message.

In other words, endlessly reproduced across all aspects of American society, the core narratives of the war on terrorism, particularly those regarding the terrible threat posed by terrorists and their evil, inhuman nature, functioned to create a new social reality in which a particular group of people – terrorists and terrorist suspects and sympathizers – were removed from the orbit of conventional reality.⁹¹ Evidence that this new torture-sustaining reality took hold thereby facilitating the abuses seen in the torture scandal can be found first and foremost in public attitudes towards torture. Polls have consistently found that a significant proportion of Americans agree that torturing terrorist suspects is justified on rare occasions.⁹² There is no reason to think that military or intelligence personnel held different views. We might also infer public attitudes from the popularity of television shows like Fox's *24*, where torture is constantly justified and routinely practiced as a necessary counter-terrorism tool,⁹³ from the absence of public concern or outrage at the public evidence of abuse mentioned earlier, and from the ongoing and very serious public debate by academics, officials, and journalists about the necessity and ethics of torture.⁹⁴

⁹¹ Crelinsten, 'The World of Torture', p. 297.

⁹² Polls indicate that between 32 and 61 percent of Americans agree that torture is acceptable in some circumstances. In late 2001, a Christian Science Monitor poll found that 32 percent of surveyed Americans favoured torturing terrorist suspects, while a CNN poll found that 45 percent of Americans would not object to state torture if it extracted information about terrorism. Four years later, little had changed: in late 2005, an ABC/*Washington Post* poll found that 35 percent said that torture is acceptable in some circumstances, although this went up to 46 percent for physical abuse that falls short of torture, while an AP-Ipsos poll found that 61 percent of Americans agreed that torturing terrorist suspects is justified at least on rare occasions. See Luban, 'Liberalism, Torture, and the Ticking Bomb', p. 35; Alisa Solomon, 'The Case Against Torture: A New U.S. Threat to Human Rights', *The Village Voice*, November 28 – December 4, 2001, available online at: <http://www.villagevoice.com/news/0148,fsolomon,30292,1.html>, accessed 26 March, 2006; David Morris and Gary Langer, 'Terror Suspect Treatment: Most Americans Oppose Torture Techniques', *ABC News*, available online at: http://abcnews.go.com/sections/us/Polls/torture_poll_040527.html, accessed 24 March, 2006; and Will Lester, 'Poll finds support for the use of torture in war on terror', *The Washington Times*, available online at <http://washingtontimes.com/functions/print.php?StoryID=20051206-114042-3526r>, accessed 24 March, 2006.

⁹³ See 'Normalizing Torture, One Rollicking Hour At a Time', All the information you need! Anytime, anywhere! – Crime, Intelligence, Terrorism, Drugs, Technology, Defense & Security, May 22, 2005, available online at: <http://www.opensourceinfo.org>, accessed 2 May, 2005.

⁹⁴ The extent of the serious public debate on torture can be inferred by the many new books and academic articles on the subject, as well as all of the conferences, op-ed pieces, political statements, online

I want to argue that it is also possible to demonstrate how the public discourse – in particular, narratives regarding the threat of terrorists, and the inherently evil, barbaric, and inhuman terrorist ‘other’ – are implicated in the practice of torture through an examination of some specific instances of abuse, namely the torture revealed in photographs from Abu Ghraib⁹⁵ and Guantánamo Bay. The images from these notorious cases reveal the myriad of ways in which the public discourse about terrorists was translated by individual soldiers into specific instances of abusive behavior. For example, the extreme forms of shackling seen in the images of the initial Guantánamo Bay prisoners (in some cases, bound and shackled to gurneys, detainees were wheeled to interrogations; in others they were tightly shackled, blindfolded, and muzzled) were officially justified on the grounds that these were such dangerous individuals that they had to be restrained in this fashion for the safety of those guarding them. General Richard E. Myers, chairman of the Joint Chiefs of Staff, suggested that they were such a threat because given half a chance, they ‘would gnaw through hydraulic lines in the back of a C-17 to bring it down.’⁹⁶ Donald Rumsfeld said on a visit to Guantánamo that the prisoners there were ‘among the most dangerous, best-trained, vicious killers on the face of the earth.’⁹⁷ In effect, the ubiquitous public narrative of highly trained, expertly organized, and fanatical super-terrorists was translated directly into abusive transportation and prisoner management practices. The fear generated by the discourse of the dangerous terrorist ‘other’ was thus discursively reflected in the prisoner control practices and the attitudes of the guards towards terrorist suspects.

Similarly, the public discourse by senior administration officials in which terrorists were frequently described as the ‘*faceless* enemies of human dignity’⁹⁸ was reflected in the institutional practice of putting hoods on prisoners or making them wear blackened goggles, masks, and ear covers during transit, thereby rendering them literally as well as figuratively ‘faceless’. In the Abu Ghraib abuse photographs the victims are hooded even though there was no practical need for them given that they were in custody. It seems reasonable to assume that the hooding was both a deliberate means of dehumanization to facilitate the subsequent abuse and a subconscious attempt to confirm them as ‘faceless’ enemies. As the Milgram experiment and the real-world experience of counter-terrorism in Northern Ireland clearly demonstrated, interrogators find it far easier to inflict pain on their subjects when their facial expressions are obscured. In any case, these images reveal that the social and political construction of the ‘faceless’ enemy other was more than simply political rhetoric; rather, it actually helped to co-constitute the widespread abuses of the counter-terrorist campaign.

Senior administration officials also frequently referred to terrorists as ‘animals’ and ‘barbarians’ who were outside the realm of civilized society. For example, America’s

discussions, and articles in popular news journals like *The Economist*, *Time*, *Newsweek*, *The New York Review of Books*, and the like. A great many of these sources have been cited in this paper.

⁹⁵ The Abu Ghraib abuse photographs were first published on the internet by the *Washington Post*. They have since been reproduced on dozens of websites. Examples can be accessed at: <http://www.antiwar.com/news/?articleid=2444>, accessed June 4, 2005.

⁹⁶ Rose, *Guantánamo*, p. 2.

⁹⁷ Quoted in Rose, *Guantánamo*, p. 8.

⁹⁸ George W. Bush Jr., ‘Remarks in Commencement Address To United States Coast Guard Academy’, Nitchman Field, New London, Connecticut, May 21, 2003, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

ambassador to Japan stated that the September 11, 2001 attacks were ‘an attack not just on the United States but on enlightened, *civilized societies* everywhere. It was a strike against those values that separate us from *animals* – compassion, tolerance, mercy.’⁹⁹ This language suggested that terrorists were both animals and barbarian savages. President Bush reaffirmed this formulation when he stated that: ‘By their *cruelty*, the terrorists have chosen to live on *the hunted margin of mankind*. By their hatred, they have divorced themselves from *the values that define civilization itself*.’¹⁰⁰ In effect, this language placed terrorists outside of the civilized community, on the ‘*hunted margins of mankind*’ and functioned to essentialize them as ‘an evil and *inhuman* group of men’.¹⁰¹ Effectively, it transformed them into sub-human savages and animals that needed to be hunted down and smoked out of their caves. Apparently, Ivan Frederick’s favourite description of the prisoners was ‘animals’.¹⁰² Employing the same language as Bush and Rumsfeld, Frederick then had no compunction against treating them as ‘animals’. The most visually powerful expression of this discursive rendering is the photograph of Lynndie England holding a prisoner on a leash. Disturbingly reminiscent of colonial era photographs of African slaves tied by the neck,¹⁰³ this image represents the ultimate realization of the discursive creation of the terrorist ‘savage’ or ‘animal’. Similarly, the image of the ‘savage’ terrorist being confronted by a savaging dog is another discursive re-enactment of the public discourse: hunting dogs stalk the terrorist prey; the trained wild animal is employed to subdue the terrorist beast.

A final narrative relevant here is the notion of the terrorist enemy as a kind of disease or sickness. Colin Powell frequently referred to ‘the *scourge* of terrorism’.¹⁰⁴ This medical metaphor associates terrorists with filth and decay. It was restated even more explicitly by Rumsfeld: ‘We share the belief that terrorism is a *cancer* on the human condition’.¹⁰⁵ Bush in turn, spoke of the danger to the body politic posed by ‘terrorist *parasites* who threaten their countries and our own’.¹⁰⁶ In these constructions, the terrorists are re-made as dangerous organisms that make their host ill; they hide interiorly, drawing on the lifeblood of their unsuspecting hosts and spreading poison. It is

⁹⁹ Howard H. Baker, Jr., U.S. Ambassador, ‘Japanese Observance Ceremony for Victims of Terrorism in the U.S.’, Tokyo, September 23, 2001, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

¹⁰⁰ Interestingly, President Bush made these comments close the Great Wall of China, built specifically to keep out the barbarian hordes. George W. Bush Jr, ‘Remarks by the President to the CEO Summit’, Pudong Shangri-La Hotel, Shanghai, People’s Republic of China, October 20, 2001, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

¹⁰¹ Baker, ‘Japanese Observance Ceremony for Victims of Terrorism in the U.S.’.

¹⁰² Quoted in Kevin Toolis, ‘Torture: Simply the Spoils of Victory?’, *Newstatesman* (10 May, 2004), p. 9.

¹⁰³ Interestingly, the most famous photograph of the Abu Ghraib abuses shows a hooded man with his arms outstretched, standing on a box, and with what appears to be electrical wires attached to his fingers. In this image, in another covert reference to American relations with African slaves (who were also viewed as sub-human), the hood and cloak appear to mirror the costumes worn by the Ku Klux Klan.

¹⁰⁴ Colin L. Powell, ‘Remarks by the Secretary of State to the National Foreign Policy Conference for Leaders of Nongovernmental Organizations (NGO)’, October 26, 2001, Loy Henderson Conference Room, U.S. Department of State, Washington, D.C., available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

¹⁰⁵ Donald H. Rumsfeld, Secretary of Defense, and Joint Chiefs of Staff, Gen. Richard Myers, ‘Briefing on Enduring Freedom’, The Pentagon, October 7, 2001, available online at: <http://usinfo.state.gov/topical/pol/terror/>, accessed June 12, 2003.

¹⁰⁶ Bush Jr, ‘The State of the Union Address’, January 29, 2002.

this image of the filthy, disease-ridden savage that perhaps subconsciously inspired the photograph of the prisoner smeared with what appears to be dirt or excrement.

In the end, I am suggesting that the virulent de-humanization of the terrorist ‘other’ by the political elite (and the endless reproduction of such narratives across society) led directly to the literal attempt to de-individuate and de-personalize all terrorists – as well as the suspension of individual empathy and social inhibitions against wanton cruelty. The photographs of prisoners in huge piles of bodies, a mass of indistinguishable naked body parts and heads hooded to obscure individual faces, was the ultimate realization of this discourse. For a moment in time, the sub-human ‘terrorists’ were discursively remade as a squirming mass of parasites or cancerous cells; they ceased to be individuals and their humanity dissolved. Disturbingly, the photographs of prisoners piled on top of each other also mirrored the well-known images of piles of naked corpses in the concentration camps during World War II; the Holocaust too, was in part the result of a discourse that defined the enemy ‘other’ as inhuman ‘animals’ and ‘parasites’.¹⁰⁷

In short, the abuse photographs represent more than simply the careless recordings of a few sadistic or psychologically ill individuals; in an important sense, they were the logical outcome of a powerful public and private discourse that systematically de-humanized, de-personalized, and demonized the enemy ‘other’. Within the confines of this language, the resulting torture and abuse was more than unsurprising; it was highly predictable. It became normalized within the moral logic of the language and practice of the war on terrorism. Apart from the confidence with which the Abu Ghraib abusers conducted themselves – giving the thumbs up to the camera, posing naked bodies in the general corridor with other activities continuing on behind them – the abuse was so widely known and accepted that one of the pictures was reportedly used as a screen saver on a computer in the interrogation room.¹⁰⁸ As Crelinsten summarises it, the causes of torture are found in ‘the processes that permit the construction of a separate reality’,¹⁰⁹ such as the creation of evil, inhuman, deadly enemies.

Conclusion

Although the US government has distanced itself from the earlier documents of the torture policy and taken concrete steps to try and curb the use of torture by serving personnel, we still need to explain how torture became so widespread for the first four years of the war on terrorism,¹¹⁰ particularly given the legal prohibitions on torture in

¹⁰⁷ See Daniel Goldhagen, *Hitler’s Willing Executioners: Ordinary Germans and the Holocaust* (New York: Alfred A. Knopf, 1996).

¹⁰⁸ Brody, ‘The Road to Abu Ghraib’, in Meerpol, *America’s Disappeared*, p. 127.

¹⁰⁹ Crelinsten, ‘The World of Torture’, p. 299.

¹¹⁰ There is a great deal of scepticism about the sincerity and effectiveness of administration attempts to stamp out torture, not least because of ongoing legal and political challenges from the administration to existing and proposed legislation banning it, the very small number of relatively low-ranking individuals who have so far been punished and the very light sentences handed down to torturers, the continued efforts to redefine torture and the use of vague language in official documents, and the exemption of the CIA from prohibitions on torture. See for example: Human Rights First, ‘One Year After the Abu Ghraib Torture Photos: U.S. Government Response “Grossly Inadequate”’, available online at: http://humanrightsfirst.org/us_law/etn/statements/abu-yr-042605.htm, accessed 7 November, 2005; ‘Report: Detainee abuse claims not investigated in full’; and Greenberg, *The Torture Debate in America*. In addition, Amnesty International states that there continue to be reports of torture or ill-treatment of

American law and its human rights-based political culture. I have argued that explanations for torture lie in a combination of historical, social-psychological, and discursive factors, not least the construction and maintenance of a new torture-sustaining reality founded on a set of widely disseminated and continuously reproduced narratives. There are both ontological and political-normative implications to be drawn from this study. Ontologically, the findings presented here suggest that we need to pay more attention to public political language and the way it is employed to justify projects of large-scale violence and set the parameters of public debate, and the way it structures and limits policy options. Analytical approaches which focus solely on interests or institutional and material factors are insufficient for explaining the emergence and persistence of complex political phenomena like torture.

From a political-normative perspective, the practice of torture by America has important implications for the fragile international human rights regime. Regardless of how ‘real’ America’s commitment to the promotion of human rights is thought to be,¹¹¹ the fact is that great powers play a crucial role in norm-setting and norm-upholding in international relations and their public behaviour legitimates the behaviour of others within the international system. The conspicuous denial of human rights to torture victims and prisoners at Guantánamo Bay, as well as the suspension of the Geneva Conventions and the major political and military support for regimes with poor human rights records, have sent a powerful message to other states in the system that claims of national security concerns can be used to abandon any commitment to human rights. In the process, many of the instruments and institutions of international human rights law, painstakingly constructed over the past few decades, may have been seriously undermined. Few now disagree that globally, human rights have been undermined by American actions in the war on terrorism.¹¹²

Related to this, the continued expression and reproduction of a public discourse that demonises and dehumanizes the terrorist ‘other’, suggests that torture and abuse will probably continue to occur, even if it moves further underground; as long as the public (and politicians) are encouraged to see terrorist suspects as less than human and essentially evil, the torture-supporting reality will remain and abuses will most likely occur. Normatively, this suggests that there is a pressing need to oppose and deconstruct the language and narratives of the war on terrorism. An important part of this must involve publicizing the extensive research that demonstrates that ‘terrorists’ are not

detainees by US troops. See ‘USA: Amnesty International’s Supplementary Briefing to the UN Committee Against Torture’.

¹¹¹ It is a fact that America’s relationship with the international human rights regime has always been ‘troubled’ or paradoxical. Jason Ralph suggests that this is due to the long-standing tradition of American exceptionalism, which is the broader context of the current scandal. See Jason Ralph, ‘Review Article: America’s “War on Terror”: Making Sense of the “Troubling Confusion”’, *The International Journal of Human Rights*, vol.10, no.2 (2006), p. 179. See also, Aziz Rana, ‘Review Article: Haunted by a Paradox: Human Rights Promotion and American Foreign Policy’, *The International Journal of Human Rights*, vol.10, no.2 (2006), pp. 271-82.

¹¹² Irene Khan, the Secretary General of Amnesty International, states in her annual statement for 2005 that: ‘The US administration’s unilateralism and selectivity sent a permissive signal to abusive governments around the world. There is strong evidence that the global security agenda pursued since 11 September 2001, the US-led “war on terror”, and the USA’s selective disregard for international law encouraged and fuelled abuses by governments and others in all regions of the world.’ Amnesty International Report 2005, available online at: <http://web.amnesty.org/report2005/index-eng>, accessed 20 May, 2006.

inherently ‘evil’, or inhuman, or even pathological,¹¹³ and that historically, there are more effective forms of counter-terrorism based on criminal justice-based initiatives combined with social and political reform and dialogue.

More specifically, it must involve affirming why torture is never acceptable under any circumstances, even as a limited warrant for extreme situations. There are a great many powerful arguments to make in support of an absolute prohibition on torture: by nature torture is a unique kind of wrong – a form of rape that perverts human relationships and agency – that cannot be morally justified under any circumstances;¹¹⁴ torture violates the principle of non-combatant immunity, which is the same reason why terrorism is morally wrong;¹¹⁵ torture leaves permanent damage to both the tortured¹¹⁶ and the torturer,¹¹⁷ and thus, is morally indefensible; the ticking bomb scenario is a highly flawed thought experiment with virtually no real-world relevance;¹¹⁸ torture is a very poor tool of intelligence-gathering and can even be counter-productive;¹¹⁹ sociologically and historically, exceptions to the prohibition on torture have always led to widespread use in non-exceptional cases and have undermined the moral community and the respect for human rights more generally;¹²⁰ and its legal adoption by a democratic society would entail moral practices that are incompatible with liberal norms and rights, such as torture-training for interrogators and doctors, medical support for torture sessions, research and development in non-lethal torture, and the manufacture of torture equipment and torture facilities, for example.

¹¹³ See among others: John Horgan, ‘The Search for the Terrorist Personality’, in Andrew Silke, ed., *Terrorists, Victims and Society: Psychological Perspectives on Terrorism and its Consequences* (Chichester, UK: John Wiley & Sons, 2003); and Andrew Silke, ‘Cheshire-cat Logic: The Recurring Theme of Terrorist Abnormality in Psychological Research’, *Psychology, Crime and Law*, vol. 4 (1998), pp. 51-69.

¹¹⁴ This argument is powerfully made in: Sussman, ‘What’s Wrong with Torture?’; Maureen Ramsay, ‘Can the Torture of Terrorist Suspects be Justified’, *The International Journal of Human Rights*, vol. 10, no.2 (2006), pp. 103-119; and Elaine Scarry, *The Body in Pain* (New York: Oxford University Press, 1985) – among others.

¹¹⁵ See Jonathan Allen, ‘Warrant to Torture?: A Critique of Dershowitz and Levinson’, *ACDIS Occasional Paper*, University of Illinois at Urbana-Campaign, January 2005, available online at: <http://www.acdis.uiuc.edu/Research/RecentPubs.shtml>, accessed 5 May, 2006, pp. 4-5. See also, Henry Shue, ‘Torture’, *Philosophy & Public Affairs*, vol. 7 (1978), pp. 124-43.

¹¹⁶ As David Sussman puts it, ‘The agony of torture typically continues to reproduce itself in the lives of victims and those close to them long after the physical torments stop.’ Sussman, ‘What’s Wrong with Torture?’, p. 12.

¹¹⁷ Evidence shows that many torturers develop serious emotional problems as a result of their work. See Darius Rejali, ‘Does Torture Work?’, *Salon.com*, available online at: http://archive.salon.com/opinion/feature/2004/06/21/torture_algiers/print.html, accessed 26 March, 2006.

¹¹⁸ For useful critiques of the ticking bomb scenario, especially as articulated by Harvard Law Professor Alan Dershowitz, see among others: Elaine Scarry, ‘Five Errors in the Reasoning of Alan Dershowitz’, in Sanford Levinson, ed., *Torture: A Collection* (Oxford: Oxford University Press, 2004); Ramsay, ‘Can the Torture of Terrorist Suspects be Justified’; and Allen, ‘Warrant to Torture?’

¹¹⁹ See among others: Bellamy, ‘No Pain, No Gain?’; Rose, *Guantánamo*; Rejali, ‘Does Torture Work?’; and Anne Applebaum, ‘The Torture Myth’, *The Washington Post*, January 12, 2005, available online at: <http://www.washingtonpost.com/ac2/wp-dyn/A2302-2005Jan11?language=printer>, accessed 26 March, 2006.

¹²⁰ Allen reiterates the point taken from Holocaust studies that ‘once practices have been placed in a bureaucratic or official context, in which goals are no longer open to question and personal responsibility is divided and diffused, moral resistance to abuses is much less likely to occur.’ Allen, ‘Warrant to Torture?’, p. 12. See also Bellamy, ‘No Pain, No Gain?’