

Anonymous sources quoted by New York Times

US government's unofficial defense of torture

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The lead article in Sunday's *New York Times* is a backhanded defense of torture given by officials within the Bush administration. Consisting largely of citations from unnamed "current and former government officials," the article—"Aides Say Memo Backed Coercion for Qaeda Cases," by David Johnston and James Risen—implicitly presents a justification for torture as a necessary tool in the so-called "war on terrorism."

The article relates to a memo prepared by the Justice Department in August 2002 that provided a legal interpretation of an American anti-torture law passed in accordance with the International Convention Against Torture. The memo essentially concocted a legal justification for the use of torture. It outlined an extremely narrow interpretation of torture that allowed for a wide range of methods banned by international anti-torture conventions. It also outlined a number of legal justifications—including the supposedly unlimited war-time powers of the president as commander-in-chief—to disregard even these limits (see "*Washington Post* publishes memo implicating White House in torture of prisoners").

After the memo was leaked to the press earlier this month, the Bush administration felt obliged to publicly repudiate it. It is currently being redrafted, and administration officials have attempted to downplay its significance. Officials have declared that the memo had no practical impact on interrogation techniques, and Bush himself made a direct statement denying ever authorizing or condoning the use of torture.

These public denials have been made for both political and legal reasons. On the one hand, the administration is aware of the widespread revulsion against such techniques both internationally and within the US. On the other hand, administration officials are conscious of the possibility that they could be tried for war crimes if implicated by documents linking them to the abuses uncovered at the Abu Ghraib prison in Iraq and other sites where the US is holding and interrogating prisoners.

Unable, for both political and legal reasons, to openly

defend its practice of using torture, the administration is instead resorting to news leaks to willing newspapers—such as the *New York Times*—to mount a defense of torture.

The article begins by saying the memo "helped provide an after-the-fact legal basis for harsh procedures used by the CIA on high-level leaders of Al Qaeda, according to current and former government officials." It continues: "The legal memo was prepared after an internal debate within the government about the methods used to extract information from Abu Zubaydah, one of Osama bin Laden's top aides, after his capture in April 2002, the officials said."

In early to mid-2002, the CIA began to take a more prominent role in the interrogation of Al Qaeda prisoners, including Zubaydah. In Sunday's *Times* article, the unnamed officials explain that concerns were expressed at the time within the CIA and the government as a whole that the methods the CIA was using against Zubaydah and other prisoners could be considered war crimes. This is what prompted the Justice Department to come up with a pseudo-legal justification for methods of torture—methods that were already being applied by the US against alleged Al Qaeda leaders.

Not coincidentally, at about the same time, columns and editorials began appearing in American newspapers and magazines, including the *New York Times*, arguing for the permissibility of torture against those named by the government as high-level terrorist operatives.

The statements of unnamed officials cited by the *Times* in its June 27 article confirm the assessment made at that time by the *World Socialist Web Site*, which wrote that "the most likely explanation for the flow of information from Zubaida is the application of barbaric forms of torture" (see "Is the US torturing Abu Zubaida?").

One method that, according to the *Times*, was employed on another Al Qaeda suspect, Khalid Shaikh Mohammed, is known as "waterboarding." Under this technique, the prisoner is strapped to a board and repeatedly submerged in water to make him feel that he is about to drown.

The purpose of the *Times* piece, however, and the aim of

the officials who provided the information, is not to expose the administration's policy of torture, but rather to justify it. This is done by implying that such methods were and are necessary to ensure the security of the country and defend it against future attacks.

According to the article, "The officials said the memo illustrated that the Bush administration, in the months after the September 2001 attacks, was urgently looking for ways to force senior Qaeda detainees to disclose whether they knew of any future terrorist attacks planned against the United States."

The memo was "written in response to the CIA's efforts to extract information from high-ranking Qaeda suspects, and was unrelated to questions about handling detainees at Guantanamo Bay or in Iraq.... In the end, administration officials considered Mr. Zubaydah's interrogation an example of the successful use of harsh interrogation techniques."

Though it is never stated directly, the argument that is being implied is clear: The "harsh interrogation techniques" were meant to be used only selectively against leading terrorist masterminds, and were necessary to prevent future terrorist attacks.

The argument that torture or, as it is euphemistically put, "harsh interrogation techniques" are necessary to protect ordinary people is not a novelty invented by the Bush administration. Every government that has engaged in torture has sought to justify its actions by arguing that the safety, security and existence of innocent people depend on the extraction of information from evil-doers that could not be obtained in any other way.

The international laws that ban the use of torture, however, flatly reject all such arguments. They categorically outlaw the use of torture, even if carried out in the name of protecting the innocent or the necessities of war. They contain no exemption for national security.

A prohibition that exempted cases of national security would be entirely useless, since every government that decided to use torture would simply cite national security as its justification. The Convention Against Torture contains a separate clause explicitly stating that under no conditions—including war and national emergency—is a violation of the provisions of the treaty permitted.

The prohibition on the use of torture is a question of basic human rights and democratic principle. One of the main treaties banning torture, the Geneva Convention of 1949, was implemented in the aftermath of World War II. It was seen by many as a means of preventing the sort of barbaric methods that were employed in that conflict, including the torture of prisoners. The very fact American officials are today defending such methods is an indication of the extent

to which the American ruling elite has abandoned any commitment to democratic rights.

The contention, moreover, that the use of torture has made the American people safer is absurd. Far from weakening terrorism, it has actually made terrorist groups stronger and has inflamed anti-Americanism around the world. The torture of prisoners has increased the danger faced by Americans who are captured by groups such as Al Qaeda.

The very notion that one can accept uncritically the claims of the Bush administration that its actions are designed to find the truth about these organizations and prevent terrorist attacks is dubious, given the fact that the administration has done everything it can to prevent a serious investigation into the attacks of September 11.

Moreover, the contention made by the government officials cited by the *Times* in its June 27 article, and repeated uncritically by the newspaper, that the August 2002 memo was "unrelated to questions about handling detainees at Guantanamo Bay or in Iraq" is simply a lie. The memo was written to apply in all circumstances. Other memos written around the same time were intended to exclude Al Qaeda and Taliban fighters, including all those held at Guantanamo Bay, from protection under the Geneva Conventions.

These memos formed the basis of a directive issued by Secretary of Defense Donald Rumsfeld increasing the interrogation methods that could be used on prisoners in Guantanamo Bay, including hooding, nudity and stress positions. These same methods were later transferred to Abu Ghraib, and shortly afterward the abuses captured in the now infamous photographs occurred.

What has begun to emerge is that over the past two years, the Bush administration has sought to construct a legal foundation for the arbitrary detention and torture of anyone, in any part of the world.



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