

Australian media debates legalisation of torture

Richard Phillips
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Over the past three and a half years, the Howard government, in line with its embrace of the Bush administration's "war on terror" and the illegal invasions of Afghanistan and Iraq, has conducted an unrelenting assault on fundamental democratic rights.

With tactical support from the Australian Labor Party, the government has endorsed the illegal US detention and abuse of Australian citizens David Hicks and Mamdouh Habib in Guantánamo Bay, enacted its own anti-terror laws, asserted the right to imprison asylum seekers indefinitely and imposed other repressive measures.

In addition, the Howard government has refused to support the "Optional Protocol to the UN Convention on Torture". Endorsement of this protocol, which was designed to strengthen the 1984 Convention, would compel Canberra to allow regular inspections of Australian detention centres and prisons by international and local monitoring organisations, something it has no intention of allowing.

In line with this dangerous erosion of basic rights, sections of the local media, with encouragement from the government, have attempted to create a social and moral climate where torture is legitimised as a necessary, if unpleasant, fact of life.

International human rights laws have long been the targets of right-wing talkback radio hosts and various high-profile Murdoch press commentators, but over recent months calls for the legalisation of torture have been aired by other sections of the media. They include the state-funded Australian Broadcasting Corporation (ABC) and Special Broadcasting Service (SBS). Both networks, which are under intense pressure to end all criticism of government policy, have held forums on the "acceptability" of torture, with various right-wing commentators given media time to peddle their views on the subject.

On February 15, "The Law Report", an ABC Radio National program, discussed torture—"what it was and was it ever justified?" Among those participating were various human rights activists and Julie Clarke, a Deakin University law lecturer who openly called for torture bans to be lifted.

Clarke said torture should be allowed in "certain circumstances"—when urgent information was required to "prevent" an impending terrorist attack. This, in the parlance of those attempting to justify the physical and psychological abuse of prisoners, is known as a "ticking bomb" scenario. She favourably cited a recent German case where a deputy police commissioner instructed his officers to torture a man involved in the kidnapping of an 11-year-old boy.

Given the widespread international outrage over the US military abuse of prisoners in Abu Ghraib, Clarke said she "did not condone" the practices at the notorious prison, but insisted that they had occurred because there were bans on torture.

"Not having torture legalised," she said, "means that it's sort of

been driven underground a little bit, beyond accountability... The idea of making it accountable would be to try and reduce the instances of torture that actually take place, and to be able to demonstrate publicly why they are taking place."

When it was suggested that this would only institutionalise the practice, she replied: "Well it could, but I think that's perhaps better than circumstances where we have people that are not trained using torture."

While the program's presenter and other guests, including Jumana Musa, an Amnesty International official observing the military trials in Guantánamo Bay, opposed Clarke, her position reveals the extent of the rightward shift by sections of Australian academia and the so-called "small-l" liberal media. Airing such calls would have been regarded as an abomination only a few years ago.

On April 5, SBS television's "Insight" program followed up with an hour-long dialogue on the subject. Guests included two former US military interrogators—Bob Newman and Mike Ritz—and a studio audience.

Among those commenting from the audience were two Howard government supporters and advocates of harsh interrogation techniques—Ted Lapkin, associate editor of the *Review*, a Zionist publication, and Neil James, executive director of the Australian Defence Association.

While various human rights activists, a philosopher, psychologist and an East Timorese man who was tortured by the Indonesian military, voiced their concerns about the growing incidents of prisoner abuse, "Insight" presenter Jenny Brockie allowed Newman, Ritz and other right-wing elements to dominate the forum.

Much of the discussion centred on whether torture, which was largely defined in physical terms, "worked" or not. Virtually no consideration was given to psychological abuse and its impact. Nor was any attempt made to explain how and why torture was first outlawed in England in 1640; was an early reform of the 1789 French Revolution; and why it remains a war crime today. Moreover Brockie put television audiences off their guard by providing few political details of the background and agenda of those who were "redefining" torture or suggesting that bans be lifted.

Newman is a former combat Marine and a veteran of the first Gulf War. He runs nationally syndicated radio programs in the US, which promote Washington's "war on terror", is a director of an international security and counter-terrorism corporation and a regular contributor to *Frontiers of Freedom* and other extreme right-wing publications.

Ritz heads Team Delta, a private US company that provides "realistic military experiences" and interrogation training for law

enforcement officers, security companies and other individuals. Its slogan is “We can make you talk”. Former US military intelligence, Special Forces and other elite military personnel conduct Team Delta classes.

Lapkin, an Australian resident, previously worked as an Israeli intelligence officer and was recently a publicist for the US Republican Party. James is a former Australian military intelligence officer, who taught specialist courses, including interrogation techniques, to Australian military intelligence personnel and private security agencies.

Newman opened the “discussion” by presenting another “ticking bomb” scenario to justify the abuse of prisoners, which he claimed was legal under the Geneva Conventions. He declared, however, that terrorists did not “rate protection” under the Conventions. Ritz attempted to whitewash the US treatment of prisoners at Abu Ghraib, declaring that it was not torture but a “prisoner mishandling process”.

James, while claiming to oppose torture and insisting that such practices never occurred in the Australian military, made the extraordinary statement that “there were a lot of things—sleep and sensory deprivation—which were falsely described as torture”. This, he said, “complicated” the issue.

In an attempt to denigrate widespread concern about prisoner abuse, he declared: “Most things are torture, if you do it for long enough. Eating ice cream and beer, especially if you do it together, would be torture if you did it forever. But it’s not torture in the short term.”

When Sarah Joseph from the Castan Centre for Human Rights explained that international law not only prohibited torture but all inhuman and degrading treatment, “Insight” host Brockie glibly concluded that a definition of torture was “still very interpretive”.

Ritz concurred, claiming that lower-ranking US soldiers were not clear about the issue. Asked point-blank whether he would physically abuse someone to “save lives,” he responded: “I’m going to do what it takes”.

The program then screened a fictional SBS news report about an impending terrorist bomb attack in Sydney. Lapkin was asked to comment. “[W]e’re at war with terrorists ... [so] talking about the conventions of civilian courtrooms and the rules that govern civilian life are really irrelevant, because it’s a battlefield situation.”

Another audience member, Raimond Gaita, a philosophy professor from Kings College, correctly insisted that torture was “one crime against humanity whose prohibition should be exceptionless”. When he suggested that the Australian and other governments had been complicit in the rendition of prisoners, James interjected, claiming that there was no evidence that the Australian government was involved.

Challenged on this, James responded: [A]spects of the rendition policy are probably a bit... for want of a word, illegal. However, I once watched an entire one-hour documentary on Mamdouh Habib, which bleated at length about him being sent back to Egypt and didn’t once point out that he was an Egyptian citizen.” Although an audience member attempted to refute this well-known lie, presenter Brockie remained silent.

As the show continued, Ritz made the astonishing claim that sleep deprivation and stress positions “were not torture” or even a violation of human rights laws.

Naldo Rei from East Timor, who was tortured on seven occasions by Indonesian troops, described the abuse and explained that he nevertheless refused to comply with his interrogators, because it would have led to the killing of members of his family.

Ritz responded by suggesting that perhaps the torture could have

been avoided if Indonesian troops had “just approached discussing family with him”. In other words, the interrogators should have terrorised the East Timorese youth with suggestions that the military authorities would target his family if he failed to comply.

A day after “Insight” was broadcast, Newman published a vitriolic newspaper column entitled “Hate Down Under” in which he declared that most of the “Insight” audience was infected with the “anti-American contagion” and, like “Aussie sheep”, knew nothing about fighting terrorism.

“[I]n their lazy arrogance and from the comfort of their living rooms Australian liberals, like American liberals, see not the terrorists as the enemy, but those who are willing to fight them... [T]he only apparent hope for Australia”, he concluded, “is Prime Minister John Howard” who was attempting to defend the country against terrorist attacks.

Notwithstanding Newman’s hysterical comments, the fact that he and his like-minded counterparts in Australia are given a platform to denounce the most elementary of legal rights—the illegalisation of torture—is an alarming development. That this issue can be politely debated by sections of the so-called liberal media is a clear indication of the deep political and moral decay within broad sections of Australia’s ruling establishment.

Perhaps one of the more revealing comments on the “Insight” program came from Marian Wilkinson, national security editor for the *Sydney Morning Herald*. The *Herald* has, on occasions, criticised some of Canberra’s human rights violations.

Wilkinson told the program that she opposed the use of torture. But her “disagreements”, like those of the *Herald*, were from an entirely tactical standpoint. The US abuse of terror suspects, she said, ran counter to Washington’s claims to be democratising the Middle East and undermined its political credibility. She did not challenge the bogus character of Washington’s assertions or Australia’s participation in its criminal Middle East operations.

Asked directly whether a “ticking bomb” scenario justified the use of torture, Wilkinson replied that if this sort of event ever occurred, the Australian prime minister should determine “what is acceptable in the self-defence of the nation”. This, she insisted, without batting an eyelid, was separate to changing the laws on torture. “[I]f an officer decided that [torture] was absolutely necessary for the saviour of life, you could look at a presidential or some sort of legal pardon situation in the aftermath.”

In other words, there would be no opposition from Wilkinson’s quarter if the government quietly sanctioned illegal acts of torture, and then retrospectively legitimised them by pardoning the perpetrators.



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