

The Dark Side by Jane Mayer

A chronicle of US war crimes

Shannon Jones
17 January 2009

The Dark Side: The Inside Story of How the War on Terror Turned into a War on American Ideals by Jane Mayer, Doubleday 2008, 392 pp.

In *The Dark Side*, Jane Mayer, a staff writer for the *New Yorker* magazine, presents a detailed account of the assault on democratic rights and international legal standards pursued by the Bush administration in the name of the war on terror.

Mayer has written a number of articles on the torture practices of the Bush administration. Her colleague at the *New Yorker*, Seymour Hersh, wrote the first extensive exposé of the US abuse of prisoners at Abu Ghraib in Iraq.

Mayer notes that under Bush the United States gained the notorious distinction of being the first nation to ever authorize violations of the Geneva Conventions. In a September 2006 press conference, President Bush mocked the language of the Geneva Conventions, asking sarcastically, "What does that mean? 'Outrages upon human dignity'?"

According to Mayer's account, President Bush, Vice President Dick Cheney, Defense Secretary Donald Rumsfeld, Secretary of State Condoleezza Rice and top officials in the CIA and Pentagon were all involved in the authorization of actions that are prosecutable as war crimes under the Geneva Conventions as well as US and international law.

The role of the White House in authorizing war crimes has been officially confirmed. A US Senate report released December 11, 2008 states that top ranking White House officials planned and ordered the torture of prisoners at Abu Ghraib and Guantánamo. Those named include Bush, Cheney and Rumsfeld.

Indeed, in a December 15, 2008 interview Cheney acknowledged authorizing the use of the waterboarding torture, calling it "remarkably successful."

In carrying out gross violations of international law, the White House has faced little or no opposition from the Democratic and Republican leadership in Congress and the so-called liberal media. Despite the exposure of sadistic abuse of prisoners at Abu Ghraib and Guantánamo, illegal surveillance of US citizens, torture, forced renditions, secret CIA prisons—all directed at the highest levels of government—not a single high-level official has been prosecuted. Instead, Congress effectively gave its blessing to these crimes with its passage of the Military Commissions Act in 2006.

In *The Dark Side*, Mayer chooses to highlight the role of several mid- or lower level government officials that opposed all or some of the grossest abuses perpetrated by the Bush administration. Almost invariably, those who questioned administration policies ended up being mercilessly hounded, and either browbeaten into submission or driven from their posts.

One incident in particular illustrates the authoritarian and anti-democratic character of the White House cabal. Mayer relates how Jack Goldsmith, head of the Justice Department's office of legal counsel, and Deputy Attorney General James Comey, both conservative Republicans,

had raised reservations about reauthorizing the administration's torture policy following the public release of photos of prisoner abuse at Abu Ghraib in 2004.

Goldsmith decided to resign after a series of meetings in the office of Attorney General Alberto Gonzales, during the course of which he was harangued and humiliated. Mayer says the two officials "were so paranoid then about the powerful backlash they had provoked within the administration that they actually thought they might be in physical danger. Goldsmith and Comey, who knew more about the domestic surveillance program than practically anyone else in America, also feared their communications were being monitored" (p. 294).

Legal justifications

Mayer draws attention to the role played by David Addington, Cheney's chief of staff and former legal counsel, who took the lead in concocting pseudo-legal justifications for the assault on US and international law. She writes, "That the Vice President's lawyer, who had no line authority on national security matters, no staff—not even an assistant—and only secondary bureaucratic rank, would end up shaping much of the administration's legal strategy on terrorism was one of the oddities of the nation's plunge into the dark side" (p. 52).

Mayer calls Addington, "Cheney's Cheney." Reviewing the records of Cheney and Addington, she suggests "they had long imagined many aspects of the program they put in place," noting that well before September 11 "the idea of reducing Congress to a cipher was in play. It was Cheney and Addington's political agenda."

Addington effectively controlled the flow of paperwork reaching Bush's desk, Mayer reports. He would "review every proposed executive order before it reached the president for his signature. Frequently he would single-handedly rewrite the entire thing..." (p. 63). This setup essentially gave Cheney the "final word" on national security matters.

Another lawyer who gained extraordinary influence in the White House was John Yoo, an assistant deputy attorney general in the Justice Department's office of Legal Counsel, who drafted the infamous legal opinion, the so-called torture memo. Among other things, Yoo declared that unless a detainee was subject to abuse that led to things "such as death, organ failure, or serious impairment of body functions," it was not torture. The document amounted to a rationale for the removal of all legal restraints on presidential and military power.

Mayer writes, "John Yoo and David Addington were running the war on terror almost on their own." These former political unknowns rose to prominence because they most clearly articulated policies favored by decisive sections of the ruling elite. The events of September 11 provided an opportunity to carry out long prepared plans for military intervention to

seize strategic areas of the oil-rich Middle East and Central Asia. This required the scrapping of domestic and international restraints on the power of the executive branch.

In October 2001, a few weeks after the attack on the World Trade Center, the US launched a war against the Taliban regime in Afghanistan. On November 6, Cheney issued a memo declaring that the president had the right to set up military commissions to conduct drumhead trials of prisoners captured in the conflict, who were branded "terrorists." This was followed by a speech in which Defense Secretary Rumsfeld declared that "terrorists do not deserve to be treated as prisoners of war." Bush later signed an executive order saying the US would not honor the Geneva Conventions in regard to the treatment of captured Al Qaeda and Taliban.

Stories soon emerged from Afghanistan of the brutal treatment of prisoners held in US custody, who were being housed in unsheltered stockades, exposed to wind and cold. Others were blindfolded, shackled and whisked away to open-air cages at the US base in Guantánamo Bay, Cuba. As later investigations revealed, the vast majority of those sent to Guantánamo had no relation to the Taliban or Al Qaeda.

Reports trickled out of horrific crimes. The US and its international and Afghan allies massacred thousands of defenseless Taliban prisoners during the course of the war, including the aerial bombardment of the fortress of Qala-i-Janghi near Mazar-i-Sharif.

The violation of Geneva Conventions rights of prisoners in Afghanistan is illustrated by the case of John Walker Lindh, a US citizen, a survivor of the massacre of Taliban prisoners at Qala-i-Janghi. Mayer describes his ordeal in some detail. The young man, severely wounded, was held naked, blindfolded and bound to his stretcher by duct tape, according to a Navy doctor. He was denied legal counsel and fed a starvation diet. He was left "cold and sleep deprived in a pitched dark shipping container," to make him "talk," according to the same source.

According to documents obtained by Lindh's attorneys, orders for his mistreatment came from Rumsfeld's office via the Pentagon. Mayer cites a memo from Rumsfeld dated January 25, 2002, authored by Addington, which declares, "As you have said the war against terrorism is a new kind of war.... In my judgment, this new paradigm renders obsolete Geneva's strict limitations on questioning enemy prisoners." The memo called the Geneva Conventions' rules for the treatment of prisoners "quaint."

The scrapping of the Geneva Conventions cleared the way for the White House to adopt a state policy of torture. As Mayer notes, this did not come out of the blue. Since the Clinton years the United States had been sending prisoners to third countries that practiced torture, such as Egypt, in a procedure known as rendering. In the wake of September 11, the US moved toward the adoption of "enhanced" interrogation, a euphemism for torture, as an officially sanctioned practice.

Stark contrast to US precedents

The use of torture violated longstanding US traditions dating back to the Revolutionary War, when General George Washington ordered the humane treatment of British prisoners. This policy stood in stark contrast to the brutal treatment meted out to continental soldiers by the Red Coats, who considered the Americans treasonous "illegal combatants."

America had long been in the forefront of nations demanding an international code of conduct for warfare. Following World War II the United States had pushed for the strengthening of the Geneva Conventions to close loopholes that had been exploited by the Japanese and German governments to justify the abuse of captives. The new rules even stipulated barracks conditions, food rations and the provision of athletic equipment.

Mayer writes, "In addition to the Geneva Conventions, the United States took the lead in drafting and ratifying the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provided international law's first explicit definition of torture." It bans torture absolutely, stating: "*No circumstances whatsoever ... could be 'invoked as a justification of torture'*" (emphasis added). The Convention described torture as inflicting "severe pain or suffering, whether physical or mental" (p. 150).

The United States did violate the Geneva rules in practice during the course of its colonial wars. The US carried out terrible atrocities in the Korean and Vietnam wars, crimes for which no high-ranking officials were ever held to account. Still, in its official stance, the US government declared its opposition to abusive treatment of prisoners and its adherence to the Geneva Conventions.

Mayer points out that during the Vietnam War the US military made some effort to distinguish between civilians captured by the military and actual combatants. The military held so-called Article 5 hearings to avoid "mistakenly imprisoning innocent bystanders." Such hearings became binding military law.

However, in Afghanistan Addington proposed scrapping these rules. On January 19, 2002 Rumsfeld rescinded an order by General Tommy Franks, which had set up Article 5 hearings to screen prisoners captured in Afghanistan individually. "The president had determined unilaterally that all prisoners captured in the war on terror were unlawful combatants," writes Mayer.

After September 11 Cheney became fascinated with the "success" of the Phoenix program in Vietnam, Mayer writes. Operation Phoenix had involved the assassination of tens of thousands of suspected National Liberation Front sympathizers. Most of those killed were civilians who had little or no connection to the armed struggle against the US-backed South Vietnamese puppet government.

According to Mayer, high-level White House discussions on the use of torture against detainees took place in April 2002 and there was "no indication that any Bush cabinet members opposed it."

Mayer describes in detail the fate of alleged Al Qaeda logistics chief Abu Zubaydah, who was captured by the CIA in Pakistan in March 2002. He had the distinction of being the first person waterboarded at the directive of the president of the United States.

The interrogation of Zubaydah involved multiple instances of waterboarding, 10 times in a single week, and other forms of severe abuse, including "thrusting his head against a bare concrete wall" and forcing him to lie in a "coffin sized box." Other prisoners were subject to illegal treatment, tantamount to torture, such as sleep deprivation. Some were forced to stay awake for as long as 96 hours.

FBI agents at the scene were shocked by the CIA interrogation of Zubaydah and "wanted CIA head James Mitchell arrested," Mayer reports. After this the CIA barred the FBI from coercive interrogations. The CIA videotaped hundreds of hours of Zubaydah's torture, tapes which the White House later ordered destroyed.

Under pressure from the Bush administration to get "results," the CIA produced glowing reports about the supposedly valuable information it obtained via the torture of Zubaydah, who "confessed" to plots to bomb US banks, shopping malls, even the Brooklyn Bridge. While these alleged terrorist conspiracies had little or no foundation in reality, leaked reports of spectacular "confessions" were useful to the administration, which wanted justifications for its crimes.

Mayer writes that "a closely held investigative report written by the International Committee for the Red Cross for the detaining authority, the CIA, which it shared with the President and the Secretary of State, in 2007 described the treatment that he (Zubaydah) underwent, categorically, as 'torture' and warned that the abuse constituted war crimes, placing the highest officials in the US government in jeopardy of being prosecuted,

sources familiar with the report said."

Torture practices spread

Mayer reports the torture techniques practiced by the CIA quickly moved to the US-run prison camp at Guantánamo. Prisoners there were subject to hooding, sleep deprivation, temperature extremes and severe forms of psychological abuse. "By the fall of 2002, the US military in Guantánamo was subjecting prisoners to treatment that would have been unimaginable, and prosecutable before September 11" (p. 189).

Mayer notes that one source of ideas for prisoner abuse was the Fox television series "24." The first episodes of the show appeared in November 2001, and there is every indication that its production was intended to manipulate public opinion behind the war crimes being committed by the Bush administration.

However, it was not only the right-wing Murdoch-owned Fox Network that was involved in enabling the government torture program. Mayer alludes to the despicable role of the *New York Times*, whose editors downplayed or suppressed reports of prisoner abuse.

In many cases the strongest protests against the administration torture policies came from within the ranks of the military. Some were aghast. One military lawyer, Alberto Mora, general counsel of the US Navy, commented, "I wondered if they were even familiar with the Nuremburg trials—or with the laws of war, or with the Geneva Conventions. They cut many of the experts on those areas out" (p. 236).

It is clear that the US policy of torture was carried out with the complicity of top Democratic and Republican congressional leaders. Mayer confirms that Congress had "signed off" on torture, though members later made the lame excuse that the administration had not explained "graphically enough" the details of what it intended to do.

While Mayer's account is detailed and forthright, it is flawed in major respects. The wholesale assault on long established democratic principles is presented as the work of a relatively small group of misguided people who took the "war on terror" too far. The author accepts more or less uncritically the official premise behind the "war on terror." At one point Mayer even praises the Bush administration for its "success" in fighting terrorism.

Despite the far-reaching implications of the details outlined by Mayer, the book reaches the predictably tame conclusion that more public pressure is needed on Congress to stem abuses. It rationalizes the failure of Congress to in any way restrain the Bush administration on fears of appearing "soft on terrorism."

In fact, the assault on democratic rights and the vast expansion of the powers of the presidency and the military has nothing to do with fighting terrorism. Under conditions of growing economic crisis, militarism and massive social inequality, the US ruling class is preparing for repression of opposition, which is sure to escalate both at home and internationally.



To contact the WSWWS and the
Socialist Equality Party visit:

wsws.org/contact