

# Report makes case for prosecuting US war criminals

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This week, Human Rights Watch (HRW) issued a 159-page report titled, “No More Excuses: A Roadmap to Justice for CIA Torture.” This detailed report sets forth a compelling legal case for the criminal prosecution of senior US officials for their roles as conspirators and accomplices in the illegal Central Intelligence Agency torture program (2001-2009).

The report names names: “US officials who created, authorized, and implemented the CIA program should be among those investigated for conspiracy to torture as well as other crimes. They include: Acting CIA General Counsel John Rizzo, Assistant Attorney General for Office of Legal Counsel (OLC) Jay Bybee, OLC Deputy Assistant Attorney General John Yoo, an individual identified as ‘CTC Legal’ in the Senate Summary, CIA Director George Tenet, National Security Legal Advisor John Bellinger, Attorney General John Ashcroft, White House Counsel Legal Advisor Alberto Gonzales, Counsel to the Vice President David Addington, Deputy White House Counsel Timothy Flanigan, National Security Advisor Condoleezza Rice, Defense Department General Counsel William Haynes II, Vice President Dick Cheney, and President George W. Bush. In addition, James Mitchell and Bruce Jessen, CIA psychologist contractors who devised the program, proposed it to the CIA, and helped carry it out, should also be investigated for their role in the initial conspiracy.”

“We believe there is also sufficient evidence to investigate others who were not necessarily part of the initial conspiracy but who later joined it,” the report states. “Others should not only be investigated for torture but also for offenses such as war crimes, assault, and sexual abuse.”

The report reads like a criminal indictment. It provides point-by-point highlights of the CIA program in all its depraved and sadistic detail. The report also covers the attempts by the Bush administration to provide a pseudo-legal cover for the program, as well as attempts by the Obama administration to cover it up and shield the perpetrators from liability.

The report identifies specific US officials, victims, dates, documents, and other particulars, with emphasis on the roles of the senior officials who orchestrated the program. The report brings together material from numerous sources, including the heavily redacted executive summary of the Senate Intelligence Committee’s report on the CIA torture program, media reports, internal executive department memoranda, investigations by Human Rights Watch and other institutions, and even chilling hand-drawn images of the implements of torture by the victims themselves.

It is difficult to find words to describe the CIA’s crimes. In November 2002, the CIA murdered Gul Rahman at the COBALT “black site” facility in Afghanistan by shackling him naked so that his body lay on a cold concrete floor. His corpse was covered in bruises and abrasions, and the cause of death was determined to be hypothermia. Rahman, who left behind a wife and four children, was likely innocent, a case of mistaken identity.

To punish hunger strikers, which were a constant problem at its various torture compounds, the CIA retaliated with a form of torture/rape that was euphemistically termed “rectal feeding.” This involved reducing a tray

full of food to a puree and then injecting it into the victim’s rectum, “without evidence of medical necessity,” as the Senate report diplomatically describes it. (One imagines the guards’ scatological banter: “Oh, you don’t want to eat your lunch, do you...?”)

As a result of this form of torture, Guantanamo prisoner Mustafa al-Hawsawi developed medical conditions described as an “anal fissure” and “symptomatic rectal prolapse.” In other words, he was bleeding and part of his large intestine was protruding outside his body.

The most imaginative horror film director could not conceive of the sheer lunacy of the CIA torturers, who apparently were given free rein to act on every sadistic whim. In his book *Guantanamo Diary*, current inmate Mohamedou Ould Slahi describes being locked in a specially prepared freezing cold room “full of pictures showing the glories of the US: weapons arsenals, planes, and pictures of George Bush... For the whole night I had to listen to the US anthem... All I can remember was the beginning, ‘Oh say can you see...’ over and over.”

Shackling in “stress positions” reminiscent of the medieval Inquisition, the use of insects, sexual humiliation and assault, forced nudity, female guards smearing menstrual blood on prisoners, asphyxiation, sensory deprivation, prolonged isolation, lack of sanitation, beatings, loud music, blowing cigar smoke in prisoners’ faces, sleep deprivation, mock executions, threats to rape and kill family members—the list of depravities goes on for page after page. At least one prisoner tried to kill himself by chewing into a vein on his arm.

“Many detainees were held by the CIA in pitch-dark windowless cells, chained to walls, naked or diapered, for weeks or months at a time,” the report states. “The CIA forced them into painful stress positions that made it impossible for them to lie down or sleep for days, to the point where many hallucinated or begged to be killed to end their misery. It used ‘waterboarding’ and similar techniques to cause near suffocation or drowning, crammed detainees naked into tiny boxes, and prevented them from bathing, using toilets, or cutting their hair or nails for months. ‘We looked like monsters,’ one detainee said of his appearance while in CIA custody.”

The Human Rights Watch report demonstrates the extent to which the Senate report, in all its horror, actually understates the CIA’s crimes. For example, the Senate report mentions Adnan al-Libi being tortured with sleep deprivation for “46.5 hours, 24 hours, and 48 hours, with a combined three hours of sleep between sessions.”

“When Human Rights Watch interviewed al-Libi, long before the Senate Summary was released,” the report states, “he said he thought one of his sleep deprivation episodes lasted for more like 15 days, though he said he was in a windowless cell with little ability to track time with great accuracy. He also said the sleep deprivation was accomplished by forcing him to stand all those days with his hands chained above his head, feet shackled to the ground so that if his legs buckled, he would have to hang from his arms in order to try and sleep—something impossible to do. He endured this while diapered and otherwise naked. Once released from the

standing sleep deprivation position and allowed to shower, al-Libi said he could not move his arms and so guards had to bathe him. 'I was there for 15 days, hanging from my arms, another chain from the ground. They put a diaper on me but it overflowed so there was every type of stool everywhere.' He said he had hallucinations and felt like he was going insane and was going to die."

Other prisoners reported hearing al-Libi's screams while he was being tortured.

The Senate report last year revealed that the CIA did not actually obtain any significant intelligence through the torture program. While this does not make the torture any more or less criminal, it constitutes what a future war crimes tribunal might call an "aggravating factor." In other words, the CIA was more or less doing it for fun.

In addition to a concentrated synopsis of the CIA's crimes, the Human Rights Watch report also cites an impressive battery of international legal treaties as well as domestic statutes and precedents that outlaw torture. These include the Geneva Conventions of 1949, the international Convention against Torture, and other treaties. Under American law, the torturers and their enablers could be prosecuted under the federal Torture Statute.

Human Right Watch cites a 1983 case where a ten-year sentence was handed down to a Texas sheriff for torturing six prisoners. "The method of torture was to handcuff the detainees 'to a table or chair with the face wrapped tightly with a towel. The head would be pulled back, they said, and water would be poured over the towel until, fearing drowning, they would talk,'" (citing a *New York Times* report).

The Human Rights Watch report also refers to the precedent set by the Nuremberg prosecutions of leading Nazis after the Second World War, which "held that torture and war crimes cannot be legitimate functions of a government official." Finally, CIA agents or US officials traveling abroad could be arrested and investigated by foreign governments for their roles in the torture program.

With all this material collected in one place and rigorously presented, the Human Rights Watch report makes an overwhelming case. It is clear that there are numerous high-level war criminals residing in the United States who deserve to be arrested, indicted, and prosecuted. These individuals committed shocking crimes, and yet the whole American political establishment has united to cover up their crimes and shield them from accountability.

Indeed, the establishment media in the US has almost completely buried this week's Human Rights Watch report, just as it has buried the Senate Intelligence Committee report on CIA torture, published a year ago this month. None of the presidential candidates from either of the big-business parties has made a serious demand for the prosecution of US war criminals, from Bernie Sanders to Donald Trump. Nor have they demanded the release of the full Senate report.

Indeed, Trump has openly presented himself as a proponent of "enhanced interrogation"—a term that closely resembles the euphemism "Verschärfte Vernehmung" (intensified/sharpened questioning) employed by the Gestapo. This state of affairs is made possible by the cowardice and complicity of the Democrats and the Obama administration, which have gone out of their way to coddle and shield Bush-era torturers.

The Human Rights Watch report has its limitations. It places special emphasis on the refusal by the Obama administration to bring charges against the war criminals in the face of such overwhelming evidence. However, the report is still formulated in terms of an appeal to the Obama administration as well as other international bodies to prosecute the war criminals.

"Without criminal investigations, which would remove torture as a policy option, Obama's legacy will forever be poisoned," reads a press release by Kenneth Roth, executive director of Human Rights Watch. It is true that Obama's legacy will forever be poisoned by his role in aiding

and abetting torturers, but the statement implies that there is a chance of "Obama's legacy" being any different.

There is also the not unimportant fact that Obama phased out the torture program only to replace with a program of assassination by drone-fired missile, which has killed thousands over the seven years of his administration.

From his first moments in office, Obama has presided over a deliberate cover-up of the CIA torture program. Under the slogan of "looking forward, not backward," Obama refused to prosecute Bush-era criminals. Instead, his presidency orchestrated fake "investigations" that cleared them of wrongdoing. The Obama administration has consistently invoked the "state secrets" doctrine in court to prevent redress to victims and to prevent the full extent of the torture program from coming to light.

Before the Senate report was released, Obama administration Secretary of State John Kerry called Senate Intelligence Committee chair Dianne Feinstein to discourage her from publishing it. To this day, the Obama administration is hard at work to suppress the report. The Obama administration has instructed the various departments of the executive branch to keep copies of the report in sealed envelopes and not to read it, to promote a legal fiction that the report is a purely congressional document and thus not subject to federal transparency statutes.

Perhaps most damning of all is Obama's elevation of John Brennan to the post of CIA Director. As Deputy Executive Director of the CIA from 2001 to 2003, Brennan deserves to be in the dock along with all the rest. As Obama's appointee to head the CIA, Brennan has been at the forefront of efforts to obstruct investigations into the torture program.

Nevertheless, the inclusion of the demand for prosecutions in the Human Rights Watch report is a significant event.

The recipient of a \$100 million donation from George Soros in 2010, Human Rights Watch has a history of tacit support for "human rights imperialism" around the world. The organization's dispatches from Iraq under headlines like "Help Yezidi Survivors" (which were used as justification for US military escalation), its support for the fascist-led "Maidan" coup in the Ukraine, and its declaration that the January *Charlie Hebdo* attacks were an attack on "freedom of expression" are all indicative of a certain role the organization plays in bourgeois politics.

In this light, the demand for prosecutions is an expression of the glaring contradictions and hypocrisy of American foreign policy, which commits the most heinous violations of human rights in the name of human rights.

There is a concern in some sections of the political establishment that the example of CIA torture, without even so much as a token prosecution, will render Washington's claim to be the self-appointed guarantor of human rights around the world even more unbelievable than it already is. These concerns, to a certain extent, motivated the Senate Intelligence Committee's original investigation into the program.

In this week's report, Human Rights Watch states: "Globally, the US unwillingness to prosecute CIA torture weakens US authority to oppose torture and other abuses abroad, provides a ready excuse for countries unwilling to prevent or prosecute torture in their own countries, and undermines global respect for the rule of law."

The socialist demand for the prosecution of US war criminals is not aimed at promoting illusions in any section of the American political establishment, the US justice system, or international judicial bodies, which have already proved themselves incapable of timely bringing US war criminals to justice. In the event that any US war criminals are ever prosecuted within the framework of bourgeois politics, it will be only to that token extent deemed necessary to placate popular anger.

The *de facto* immunity enjoyed by US war criminals is an expression of class justice, which is in turn a product of class society. In America, a worker can be fired, losing his livelihood and access to food and shelter, for the infraction of "stealing" \$2 worth of empty pop bottles abandoned in a WalMart parking lot.

Meanwhile, torturers and mass murderers, corporate looters, financial parasites who steal billions, political perjurers, killer cops and their lying accomplices, in effect, the entire ruling class and its political agents, are free to commit crimes with impunity.

Any genuine demand for the prosecution of US war criminals must be a demand for an end to class justice and class society. The abandonment by the American ruling class of the rule of law and democratic norms is bound up with the growth of social inequality and the crisis of capitalism. Driven to pursue more and more unpopular policies to defend its privileges, the capitalist class jettisons democracy and the rule of law and turns to dictatorship.

The CIA torture program (which officially ended in 2009) did not occur in a vacuum, but took place simultaneously with the massive expansion of the coercive power of the state apparatus, the outbreak and escalation of aggressive war, the speculative frenzy preceding the financial crash of 2008, and the assault on democratic rights. The same years saw the militarization of police domestically, the establishment of the Department of Homeland Security, the introduction of massive illegal domestic surveillance programs, attacks on workers' wages and living standards across the board, the assertion of the president's power to jail US citizens without charges or trial, and so forth.

The breakdown of democracy and the rule of law, together with the turn to dictatorship, represents in every country the social interests and objective historical trajectory of the capitalist class. However, there remains a long tradition and historical impulse for democracy in the working class. Only the powerful intervention of the international working class, on the basis of a socialist program, will see America's war criminals brought to justice.



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