

US Brutitarianism Comes to Iraq

Part I. Rogue Exceptions, Sheer Stupidity, or Something More?

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"Notorious human rights abusers, including, among others, Burma, Cuba, North Korea, Iran, and Zimbabwe, have long sought to shield their abuses from the eyes of the world...Until recently, Saddam Hussein used similar means to hide the crimes of his regime....The United States is committed to the worldwide elimination of torture and we are leading this fight by example.

-- President [George W. Bush](#), June 26, 2002

"The precise pain, in the precise place, in the precise amount, for the desired effect."

-- Dan Mitrione,
USAID/ CIA, Montevideo, 1970

Since all the claims about Saddam's WMDs and other threats to global security are now in tatters, the goal of replacing his regime with a more humane one is one of the few justifications for the Iraq War that still has any credibility.

It is therefore deeply disturbing to learn that serious human rights violations, including several cases of torture and outright murder, may have been committed against scores of Iraqi prisoners by leading

elements of the Coalition Forces, including the [US Army Reserve Military Police](#), [US Military Intelligence \(INSCOM\)](#), the [CIA](#), and private contractors like [CACI International](#) that have been providing so-called "intelligence collection" services to the Pentagon. Similar allegations have also surfaced about [the British Army](#), although those charges [may have been exaggerated](#) by the Daily Mirror. This is of course in addition to the [thousands of civilian deaths](#) that our precision-guided military has produced all over the country with its "fire and forget" tactics.

A preliminary investigation of these charges by **US Major General Antonio M. Taguba**, disclosed last week by **CBS News** and **the New Yorker**, concluded in February that [the alleged abuses included](#):

Breaking chemical lights and pouring the phosphoric liquid on detainees; pouring cold water on naked detainees; beating detainees with a broom handle and a chair; threatening male detainees with rape; allowing a military police guard to stitch the wound of a detainee who was injured after being slammed against the wall in his cell; sodomizing a detainee with a chemical light and perhaps a broom stick, and using military working dogs to frighten and intimidate detainees with threats of attack, and in one instance actually biting a detainee.

While this behavior pales by comparison with the sadism that was routinely practiced by Saddam's minions on a massive scale, it has no place in a post-Saddam Iraq, and the US and UK certainly have no business encouraging it.

While these charges may be new to American audiences, this is actually not the first time that they have been made. According **Iraq's former Human Rights Minister, Abdel Basset al-Turki**, who resigned on May 4th in protest over these allegations, **US Pro-Consul Paul Bremer** was [put on notice](#) about this widespread mistreatment as early as November 2003, but did nothing.

That would be consistent with the brush-off that Bremer also reportedly gave to the concerns that **Amnesty International** first raised about conditions in Iraqi prisons [way back in July 2003](#).

The Pentagon also now says that it ordered a "high-level review" of the issue last fall, but this must have had little impact on the ground, since the abuses noted above took place in December 2003.

Now that **President Bush** himself has finally pronounced these abuses "[abhorrent](#)" on two Arab television stations, the military may find more time to focus on the results of the "30 investigations" of these and related charges that it claims [to have conducted over the past 16 months](#).

All told, this scandal is shaping up to be a touchstone for the whole Iraq enterprise. It is worth trying to understand how this happened – and why, in particular, American soldiers who were supposedly raised in a democratic, more or less civilized country and trained by our sophisticated, extraordinarily-expensive modern military, should have participated rather **gleefully** in such bizarre behavior -- and even photographed it, too!

THE RHETORIC - "TORTURE IS ILLEGAL"

To begin with, lest all the ***civil and military servants*** in the audience need to be reminded, this kind of behavior, if substantiated, constitutes a clear violation of one of the most fundamental, widely-shared principles of international and US law – the absolute prohibition against torture.

This prohibition, which is as universal as the ones against slavery or piracy, extends to all prisoners of war, civilians, and all other war-time detainees. Indeed, while Iraqi insurgents may not be deemed to be part of the Iraqi armed forces, and therefore are not [technically "prisoners of war"](#) for purposes of the "combatant's privilege – to fire on enemy troops without fear of prosecution - they are still entitled to the same basic rights so far as interrogation is concerned.

It is interesting to see just how many times this prohibition has recently been repeated in international law -- especially since so many countries still routinely engage in the practice.

- The [1948 Universal Declaration of Human Rights](#), Article 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."
- The **1949 Geneva Convention (4th Convention, Article 31)**: "No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties."
- The **1966 International Covenant on Civil and Political Rights**, Article 7: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

- The **1975 [Declaration on the Protection of all Persons](#)** from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, unanimously adopted by the UN General Assembly: "No state may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment."
- The **1987 [UN Convention Against Torture](#)**, which focuses on official conduct, repeats the prohibitions noted above, and also provides that (Article 2): "An order from a superior officer or a public authority may not be invoked as a justification of torture."

All of these conventions have been signed and ratified by both the US and the UK -- although the Bush Administration has actually cooperated with countries like Syria, Libya, and Cuba to [oppose efforts](#) to give international inspection "teeth" to these anti-torture conventions.

Of course such prohibitions against torture, cruel and degrading treatment of prisoners prior to conviction, arbitrary detention, "cruel and unusual punishment," and self-incrimination are also cornerstones of the American and British legal systems.

In the case of the US, they have at least a 200-year history, and are deeply embedded in the [US Constitution](#) especially the Fifth, Eighth, Thirteenth, and Fourteenth Amendments. They have also been recognized by numerous state and federal statutes, including the Uniform Code of Military Justice, the [War Crimes Act](#) (18 USC 2441), and the 1991 [Torture Victims Prevention Act](#) (28 USC 1350 App.)

More recently, the US also played a leading role in prosecuting war crimes at Nuremberg and Tokyo after World War II, and helped finance and organize the prosecution of the war crimes committed in the Balkans and Rwanda in the 1990s. Of course the Bush Administration has also recently taken pride in distinguishing itself from "Axis of Evil" regimes like Saddam's, North Korea and Iran in this respect.

RELIEF?

So what relief will all this weighty legal doctrine actually provide for the individual Iraqis who were victimized in this case? The short answer is – not much.

The officers and enlisted personnel involved may be prosecuted for crimes in US or UK military courts. But while that might satisfy the victims' needs for retribution, it won't provide them with any compensation.

The Iraq Special Tribunal that we established in December 2003 to prosecute war crimes and crimes against humanity – mainly those committed by the Ba'athist regime – was carefully limited just to [jurisdiction](#) over Iraqi citizens and residents.

In the case of the private US contractors involved in this case, the Iraqi torture victims might at least be able to sue in a US federal district court for the damages inflicted against them under "color of law," as provided by the Torture Prevention and Alien Tort Claims statutes. But this could be a hard case to prove, especially if the contractors involved were careful to let the military police do all their dirty work.

If the allegations of British misbehavior hold up, the Iraqis might also be able to bring war crimes charges against UK soldiers and their bosses at the new [International Criminal Court](#) -- since, unlike the US, Britain ratified the treaty establishing this court last year. This might make for an interesting complement to Saddam's war crimes tribunal, scheduled to begin later this year. However, even apart from the practical obstacles to such prosecutions, Iraq's "new government," hand-picked by the Coalition, would probably readily grant the UK a waiver against such complaints.

DAMAGE CONTROL?

When all these revelations first appeared – reportedly after CBS News held the story for two weeks at the request of the US military, which feared the impact on Arab opinion ("duh") -- senior military officers in the US and the UK, as well as political leaders like **Prime Minister Blair, President Bush, and even the rather cautious Senator Kerry**, were all quick to [condemn the obviously indefensible misbehavior](#). But they were also quick to claim, prior to any investigation, that this behavior must have been exceptional, engaged by at most a handful of "[rogue elements](#)" in the military and the CIA, who will now all be sternly dealt with.

However, as [Amnesty International has noted](#), these were **not just isolated incidents**. Indeed, as we'll argue below, they appear to be part of a disturbing trend toward the increasing use of "hard-core" interrogation techniques on Arab detainees by the US and its new allies in the "war on terror," both abroad and at home.

Moreover, the US and UK civilian and military intelligence services and their contractors and surrogates have **a long history of intimate involvement with such interrogation methods**.

In fact what's really most unusual about these recent scandals is not the revelation that all these services routinely use such methods, but that in this case they got their hands dirty.

Usually they are smarter than that, outsourcing the "wet work" to Third Worlders in countries with fewer reporters, human rights observers, or young Army reservists.

Ironically, in the case of occupied Iraq, these intelligence services had no other country to "outsource" the work to. With thousands of Iraqi prisoners to deal with, and a growing insurgency, they also had little choice but to rely on at-hand Army Reservists, at least one of whom decided to turn in his comrades. If the military and the intelligence services had not **gotten caught**, one wonders how many of those "30 investigations" and 25+ deaths in detention we'd have ever heard about.

There is also evidence that, especially in the wake of 9/11, similar tactics may be spreading to domestic law enforcement back in the USA – reflecting a **growing militarization of police work**. Interestingly, such tough tactics may not actually produce any more solved crimes. But they do provide nice opportunities for frustrated investigators to **blow off steam**.

Tying all this together, the patterns revealed here really **belie** the conventional notion that the hard-core interrogation tactics recently seen in Iraq were **simply rogue actions by a group of unprincipled individuals**.

Nor were they, in Donald Rumsfeld's words (after four days of silence on the subject), **simply "unacceptable and un-American."**

It is more accurate to say that, under the license of our new post-9/11 crypto-culture, many military and civilian intelligence and law enforcement officials **apparently feel entitled** to violate fundamental civil rights – especially those of Arabs and other suspect minorities – in the interests of pursuing “bad guys.” This is a little taste of what it was like to have been a white cop in Macon, Georgia, or Jackson, Mississippi, in 1956.

So this kind of behavior has become, if anything, **all too acceptable, all too American**. To make sure that it diminishes, rather than continues to grow, we need to get to the bottom of the *institutional failures*, not just the individual errors in judgment, that foster it. Just as we (almost) once got to the bottom of the systemic problems in Macon and Jackson.

THE REALITY

The latest disclosures from the Pentagon, when added to other reports in the last two years, add up to some disturbing patterns:

Iraq. As the Pentagon only [disclosed on May 4](#), since December 2002 it has launched investigations of at least 25 suspicious deaths of prisoners in custody in Iraq and Afghanistan, and 10 cases of assaults. In addition, in Iraq, [three Army reservists](#) –Army Reserve military police, like those accused in the most notorious incidents -- were discharged in January 2004 for abusing prisoners at Camp Bucca, south of Baghdad near Umm Qasr. In December 2003, [two British soldiers](#) were arrested but released after an Iraqi prisoner died in their custody. In November 2003, [Major-General Abed Hamed Mowhoush](#), of Saddam’s Republican Guard, fell ill and died during “an interview with US forces.” In August 2003, a US Army lieutenant colonel received a fine, but no court marshal, for firing a shot near a detainee’s head during an interrogation. There have been reports of similar abuses at “[Camp Cropper](#)” and “Camp Bucco,” near the Baghdad International Airport. Furthermore, the US has been very slow to provide information on the whereabouts and conditions of up to 10,000 civilians who have been detained in Iraq, leaving many family

members completely [in the dark](#) about them. And, according to Amnesty International, these detainees have been "[routinely subjected](#) to cruel, inhuman or degrading treatment during arrest and detention."

Afghanistan. According to Amnesty International, detainees [interrogated by the CIA at Bagram Air Base](#) have allegedly been subjected to "stress and duress" techniques that include "prolonged standing or kneeling, hooding, blindfolding with spray-painted goggles, being kept in painful or awkward positions, sleep deprivation, and 24-hour lighting." In December 2002, two Bagram detainees died under suspicious circumstances. A 13-year old Afghan boy who was detained in Bagram for two months [described it](#) as

"...a very bad place. Whenever I started to fall asleep, they would kick on my door and yell at me to wake up. When they were trying to get me to confess, they made me stand partway, with my knees bent, for one or two hours. Sometimes I couldn't bear it anymore and I fell down, but they made me stand that way some more."

A [December 2002 press report](#) on standard practices at Bagram sounds like it is not all that different from what recently was discovered to be going on at Abu Ghraib prison in Iraq:

Captives are often "softened up" by MPs and U.S. Army Special Forces troops who beat them up and confine them in tiny rooms. The alleged terrorists are commonly blindfolded and thrown into walls, bound in painful positions, subjected to loud noises and deprived of sleep. The tone of intimidation and fear is the beginning, they said, of a process of piercing a prisoner's resistance. The take-down teams often "package" prisoners for transport, fitting them with hoods and gags, and binding them to stretchers with duct tape.....

The US military has also been accused of standing by and watching while its allies in the Northern Alliance slaughtered up to [4000 captured Taliban prisoners of war](#).

Other Secret Detention Centers. There have also been reports of serious [psychological](#) and [physical abuse](#) at [Guantanamo's Camp X-Ray and Camp Delta](#), and [other off-limits detention centers](#), such as Diego Garcia in the Indian Ocean. Up to 3000 detainees are being held

in such facilities, but US military officials have refused to disclose their precise names and numbers, and have only allowed intermittent visits from the International Red Cross. In Guantanamo alone, after two years, more than 660 inmates are currently in detention, including some children. All these detainees have been designated as "unlawful combatants" by the US military; we do not know their names or the charges against them, and none of them have received any judicial review, access to lawyers, or even contact with relatives. Indeed, even US citizens are being held in this indefinite "right-less" limbo status, the legality of which is now being challenged in the [US Supreme Court](#). It seems likely that the prisoners' right-less status has helped to encourage abuses against them.

"Refoulement." The US has also apparently subjected hundreds of suspects – including, according to the [CIA's George Tenet](#), at least 70 before September 11th -- to "extraordinary renditions" to countries like Jordan, Egypt, [Uzbekistan](#), [Morocco](#), Saudi Arabia, [Israel](#), and [Syria](#) where edgy interrogation methods are routine. According to one report, in the mid-1990s the CIA significantly expanded its efforts to snatch suspected Arab terrorists for purposes of such renditions, from which it shared in any resulting information, [by way of a new secret Presidential "finding" that purportedly "authorizes" it](#) -- *in violation of all the international treaties noted earlier*. According the [US State Department's own country reports](#), the interrogation methods employed by these US allies include:

- **Egypt:** Suspension from a ceiling or doorframe; beatings with fists, whips, metal rods, and other objects; administration of electric shocks; being doused with cold water; sexual assault or threat with sexual assault
- **Israel:** Violent shaking; smelly head-bag; painful positions; "truth serums;" torture of teenagers.
- **Jordan:** Beatings on the soles of the feet; prolonged suspension in contorted positions; beatings
- **Morocco:** Severe beatings
- **Pakistan:** Beatings; burning with cigarettes; sexual assault; administration of electric shocks; being hung upside down; forced spreading of the legs with bar fetters
- **Saudi Arabia:** Beatings; whippings; suspension from bards by handcuffs; drugging
- **Syria:** Administration of electric shocks; pulling out fingernails; forcing objects into the rectum; beatings; bending detainees into the frame of a wheel and whipping exposed body parts.

Deeper Roots. While the “war on terrorism” has given hard-core interrogation techniques a new lease on life, in fact the Afghan and Iraqi situations are only the most recent examples of their development by both the US military and the CIA. They sponsored a great deal of [primary research on the subject, drafted “how-to” manuals](#) for use in torture/interrogation training, and provided a great deal of instruction and assistance to the global hard-core interrogation industry. Among the many recipients of this development assistance were the [Shah’s Iran, Brazil and Uruguay in the 1960s \(by way of Dan Mitrione and others\), Vietnam \(by way of the Phoenix Program’s “Provincial Interrogation Centers\), Guatemala and El Salvador in the 1980s,](#) and [Honduras’ infamous Battalion 316](#) in the early 1980s -- where our [new US Ambassador to Iraq, John Negroponte](#), also served in 1981-85.

Dubious Methods Back Home. There is also evidence that the same rough-trade interrogations tactics that US soldiers have recently employed offshore are also showing up more frequently in the US. For example, last December, a Department of Justice investigation disclosed the widespread use of mistreatment and abuse during the interrogation of dozens of Muslim detainees at the [Metropolitan District Detention Center in Brooklyn](#), in the aftermath of September 2001.

In an episode that is in some ways even spookier, **in February 2004, agents of the US Army’s Intelligence and Security Command (INSCOM)** -- which also oversees the same military intelligence units that have been misbehaving in Iraq -- [actually showed up undercover and uninvited at](#) a University of Texas Law School Conference in Austin on “The Law of Islam” in civilian garb, and later demanded a list of all the attendees and questioned several students in an aggressive manner. The Army later apologized, and promised to institute new refresher courses on the proper limits of its domestic authority.

Indeed, the US Army might start by reviewing the fundamental federal law that has been on the books since 1879 – [the “Posse Comitatus Act”](#) (PCA) (18 USC 1385), which provides for **finances and imprisonment** for anyone who uses the US military for domestic law enforcement or surveillance, except in times of national emergency or under certain other limited exceptions, none of which applied here.

This growing **militarization of US law enforcement** -- complete with Predator drones, SWAT teams, [US Marines shooting 18-year old goat-herders in the back](#) on the Mexican border, and now the very latest fine refinements on interrogation techniques from Guantanamo

and Abu Ghraib -- may be an inevitable byproduct of our brand new global wars on terrorism, drugs, anti-imperialism, and Islamic radicals whose faces we don't happen to like. But those of us who are back home, supposedly the beneficiaries of all this "national security," had better wake up and pay attention to the impact that this emerging **"state of siege" mentality** is having on our rights -- and those of the Iraqis people that we are supposed to be "liberating."



NEXT: PART II: THE ROOTS OF BRUTALITY.

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