

Agonizing Issue: is torture ever justified in military interrogations of terror suspects?

interview with Charles Knight, Co-director, Project on Defense Alternatives
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edited transcript by Jim Cronin
in *The Boston Globe Magazine*
30 January 2005

Accusations of torture and the highly publicized prison abuse in Iraq have cast a shadow over the US military's treatment of detainees. Harvard Law School is offering a spring semester course, "Torture, Law and Lawyers," on the ethics and legality of torture. This leads to a question: Can torture in military interrogations of terror suspects ever be justified? We asked Alfred Rubin, professor emeritus of international law at the Fletcher School at Tufts University, and Charles Knight, co-director of the Project on Defense Alternatives at the Commonwealth Institute in Cambridge, to address it.

RUBIN: If you've caught someone and you know that person has information, then torture for tactical information is justifiable. But if it cannot produce useful information, it is morally reprehensible. Legally speaking, the UN Convention Against Torture <<http://www.hrweb.org/legal/cat.html> (10 February 2005)> requires every state to forbid torture, and that [enforcement] is really up to the states that practice it. Many states that have signed the convention don't enforce their national law against torture. The United States is one of the few states that we do have national laws that forbid torture. But torture is believed to be practiced morally correctly [by the United States] when, as with the Bush administration's explanation for torture in Guantanamo, the information obtained can be used to prevent a more serious moral default.

KNIGHT: It is in our interest to further a practice which we would not advocate that all nations have? Is that a world we favor moving forward into?

RUBIN: If you capture the guy who has hidden a bomb that's going to kill 10 innocent people - say, schoolchildren - and the torturer genuinely feels he can get the information of where the bomb is, torture would be justified. It's a moral evaluation made by the person who's doing the torturing. One has to recognize that torture is practiced by many states, including the United States.

KNIGHT: It's very rare when you have this perfect situation where you know that a particular prisoner has information that's immediately useful. It's a misleading scenario. Torture turns out to be routinely unproductive. In domestic laws, we forbid confessions under duress in part because they almost never get to the truth. That same knowledge should be applied to our international conflicts. It demonstrates a huge lack of creativity and imagination in our intelligence agencies when they resort to torture. It goes very

quickly to the abuse that was seen at Abu Ghraib <<http://www.antiwar.com/news/?articleid=2444> (10 February 2005)>. The interrogators wanted the prison guards to "soften up" the detainees, whether or not they knew anything. It's a very dangerous process.

RUBIN: The enforcement of law is multifaceted, and the violation of law is serious. The 1949 Geneva Conventions <<http://www.unhchr.ch/html/menu3/b/93.htm> (10 February 2005)> don't actually forbid torture; they require states to forbid it, which we do, and the same with the UN Convention Against Torture. We have enacted the laws that forbid torture, and those laws have been violated in Abu Ghraib, where we were trying to keep it a secret. Those laws should be enforced.

KNIGHT: There's a huge realm of secrecy which is expanding. The [US] government won't let me assess their behavior in a practical way. When I don't know what my government is doing to prisoners in, say, Guantanamo, I have no information on which to exercise my democratic responsibility to make a judgment on my government. It goes against the very principle of democracy.

RUBIN: And yet the majority of Americans has shown by our last election they prefer not to know, and they reelect a government which keeps secrecy. I think a lot of them are prepared to say that power to keep secrecy belongs with the federal government, and they fool themselves into thinking they need not live with the consequences of secrecy and torture. But democracy frequently elects antidemocratic leaders. Certainly in Vietnam, Johnson and Kennedy were prepared to support [President Ngo Dinh] Diem, and the current administration seems to support governments in China, Albania, Russia, and others.

KNIGHT: I'm fearful we will pay for this abuse of foreign prisoners in our own society for generations. The United States is now training hundreds, maybe thousands, of new interrogators. Abusive relationships traumatize both the victim and the abuser. We are training and having our own people experience this abuse, and they will be returning home to our communities. We know from domestic abuse that this abusive pattern can be replicated through generations.

RUBIN: I disagree. A sadist who wants to torture is going to torture. People make up their own minds whether or not to torture.

KNIGHT: Following the revelation about Abu Ghraib, some of the insurgent hostage takers escalated to severing hostages' heads. You could feel a direct "we can do you one better" in terms of cruelty. The United States did not have an understanding of the insurgency they were facing. They began to round up people in a very indiscriminate way. If you're not prepared to handle the complexities of what you're dealing with, there's a gravitation toward using violence to solve the problem.

Also see:

"Outsourcing Torture and the Problems of 'Quality Control'"
<<http://www.fpif.org/commentary/2004/0405torture.html>> (10 February 2005) by Charles Knight, and

"Torture by Proxy: International and Domestic Law Applicable to 'Extraordinary Renditions'" <<http://www.comw.org/warreport/fulltext/04TortureByProxy.pdf>> (10 February 2005) by The Committee on International Human Rights of the Association of the Bar of the City of New York and The Center for Human Rights and Global Justice, New York University School of Law (.pdf file).

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