



## The Legacy of an Official Policy of Torture and Cruelty

- Post 9/11 the US enacted an **unprecedented official policy of torture and cruelty** in relation to the interrogation of detainees alleged to belong to Al-Qaida and undefined so-called associated groups.
- The interrogation methods constituting torture and/or equally prohibited cruel, inhuman or degrading treatment were formally developed and set out in a series of **'torture memos'**.
- They were approved at the highest level of government and described in a series of legal memos as 'legal', creating a deliberate shield for future legal accountability under US law. Rather than just misguided legal advice they serve the objective of **immunizing** those who acted in 'good faith' that the authorized cruelty and abuse would be lawful.
- The torture memos authorized euphemistically called **'enhanced interrogation'** technics composed of: water-boarding, hooding, standing or crouching in 'stress positions', removal of clothing, forced grooming (shaving of hair and beard), exploitation of individual and cultural phobias (e.g. dogs), isolation for up to 30 days, exposure to extremes of heat and cold, deprivation of sleep, and interrogation for up to 24 hours at a time, all of which to be applied in combination and repeatedly.<sup>1</sup>
- The **legacy of the torture policy is not over**. While most of the techniques have been rescinded under the Obama administration, some concerns about stress techniques continue. No court of law nor government official has ever declared them unlawful which would ensure that they can never be used again.
- The US remains **unwilling or incapable** of investigating these abuses bringing those responsible to justice and providing remedies and reparation to its victims. As of today, **no one** has been **held legally responsible** for these acts. Neither military officials nor the legal or political architects of these interrogation policies have been charged or brought to trial. Furthermore, the US has not cooperated with any of the legal proceedings initiated in third countries. Leading officials

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<sup>1</sup> On the applied interrogation technics see, e.g. Senate Armed Services Committee, Inquiry into the Treatment of Detainees in U.S. Custody, 20 November 2008, available online: <[http://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final\\_April-22-2009.pdf](http://www.armed-services.senate.gov/imo/media/doc/Detainee-Report-Final_April-22-2009.pdf)>.

who left in protest to these policies have not been reinstated. A senate intelligence committee investigation into the torture policy remains secret.

- Guantánamo detainees or other prisoners who have been tortured have not received any **apology, remedy, compensation or support for the rehabilitation**. The different US administrations have systematically defeated any access to US courts by using state secrets or other privileges in contradiction with human rights law. These rights apply irrespective of whether a victim is ‘innocent’, ‘guilty’, ‘good or bad’.
- The information gained through ‘enhanced interrogation’ technics in Guantánamo and in other places have also been **shared among Intelligence Agencies** including in Europe.<sup>2</sup> This has infected other countries counter-terrorism work and in some instances resulted in complicity of European countries in the abuse.
- The fact that the country that is synonym for the rule of law decides not to address the legacy of a criminal policy **damages the international prohibition of torture**. It sets an example and provides cover and pretext for other countries to do the same
- This legacy needs to be addressed now. International law is clear: **Nothing can justify torture under any circumstances**. Fighting security threats in our name demands accountability and not impunity.

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<sup>2</sup> Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, Human Rights Council, 25th Session, 4 March 2014, UN Doc. A/HRC/25/60.