

Acting Against Torture

By John LaForge

Nukewatchers have practiced nonviolent civil resistance against nuclear weapons and war for 26 years. Hundreds of us have gone to jail and prison to raise awareness of the war system or official wrongdoing, and to withdraw our cooperation with crimes of state.

Nonviolent actions at missile silos saw dozens of resisters go to jail in the '80s and '90s; hundreds of peaceful direct actions at the Navy's first-strike ELF transmitter resulted in more than nine collective years of jail and prison.

Today, photographic proof of the outrages committed by U.S. troops against prisoners, make anyone who's known a jail cell shudder. Evidence of the humiliation, abuse, torture and even murder of hooded, shackled, helpless captives has staggered us all — not just "the Arab world."

As many as 108 detainees have died in U.S. custody and half of these suspected killings have never been investigated. Over 300 incidents of abuse were documented by just one of 12, in-house, military investigations into Abu Ghraib. Some 100 detainees have been hidden from the Red Cross. Still, no high-level appointee has been indicted or tried, much less punished for creating the policies that led to these crimes of state.

Amnesty International USA, Human Rights Watch, the Center for Constitutional Rights, the ACLU, the American Bar Association and Human Rights First have joined in calling for a special prosecutor. But that decision would be made by Attorney General Alberto Gonzales, a man so tarnished by his advocacy of vicious interrogation that Molly Ivins calls him "torture boy." Demands that the Guantánamo prison be closed have come from the UN Human Rights Commission, Jimmy Carter and even the *New York Times*.

Martin Luther King, Jr. said, "Only an intolerable injustice can justify civil disobedience." Torture is nothing if not an intolerable injustice. It's a medieval atrocity.

Legal prohibitions against it are unequivocal and absolute. Torture's condemnation is enshrined in the Universal Declaration of Human Rights, the Geneva Conventions, the UN Convention Against Torture, the U.S. War Crimes Act of 1996, the Anti-Torture Act of 1996, the U.S. Army Field Manual and the recently-adopted McCain anti-torture amendment.

Since news of Abu Ghraib broke in April 2004, I've collected a box full of articles, five dozen news accounts, six official reports, and I've written wordy, indignant commentaries on the subject. All the while I knew none of the research amounted to a hill of beans if I didn't act.

I went into the SOA line-crossing Nov. 20 knowing the likely consequences. At arraignment the prosecutor read a

list of prior convictions hoping to impress the U.S. Magistrate. Hearing my record, my comical stand-by attorney, Dan Gregor of Salt Lake City, leaned over and whispered, "But you look so innocent."

When considered in the context of the U.S. prison population of 2.2 million, with over 60 percent incarcerated for nonviolent offenses, our SOA sentences appear sadly unremarkable. Prison terms for peaceful protest at SOA are only outrageous in the context of the paltry punishments given to a few convicted torturers and the fact that no one of "command responsibility" has been held to account.

Yes, we must stand against the storm of lies that would justify torture. Still, as Dan Berrigan reminds us our jail-going is not a search for justice, but a mitigating of the harm being done to people there.

I object

Prior to sentencing before Magistrate Mallon, I objected to the employment of an Army Captain as the prosecutor. I argued that since I was a civilian in a civilian courtroom, charged with violating civil law, I found it improper for the prosecution to be led by the military.

Captain Rebecca K. Connally explained that she'd been duly appointed a Special Assistant U.S. Attorney. The Magistrate overruled my objection without hearing the basis for it.

If I'd been quick enough, I would have said the use of an active duty military officer to prosecute a civilian violates one's right to due process because: 1) The protest took place on the base where Captain Connally is employed; she cannot avoid an obvious conflict of interest; 2) The use of military personnel in anti-war cases is prejudicial toward the defendant, as evidenced by Magistrate Faircloth's repeated use of her military rank when referring to Captain Connally; and 3) Civilians have a right to be protected under the Posse Comitatus Law of 1878 which forbids the use of the military for civilian law enforcement.

What I said to the court:

"... We are confronted with government violations of its own laws against torture. The UN Convention Against Torture, the Geneva Conventions and the U.S. Anti-Torture Act, prohibit and provide severe punishment for violations of the laws of war, including torture and humiliating or degrading treatment by a U.S. national, including members of the armed forces. These laws are all being flagrantly violated by U.S. forces.

"Orders allowing torture in Afghanistan, Guantánamo Bay, Iraq and dozens of other countries come from high administration authorities.

"On January 25, 2002, while he was White House Counsel, Alberto Gonzales wrote to the President that the so-called war on terrorism 'in my judgment renders obsolete Geneva's strict limitations on questioning of enemy prisoners.' The same memo suggested that denying prisoners Geneva protections, 'substantially reduces the threat of domestic criminal prosecution under the War Crimes Act.'

"Then on Aug. 1, 2002, Assistant Attorney General Jay Bybee wrote to the President that torturing prisoners overseas 'may be justified,' and that international laws against torture 'may be unconstitutional if applied to interrogations.'

"Bybee even said that the legal doctrine of 'necessity ... could provide justification that would eliminate any criminal liability.'

"How ironic it is, that this court has formally excluded the defense of necessity in the cases here today — cases involving defendants who have neither threatened nor injured anyone in our attempt to draw attention to the

McCain Torture Bill a Bust

By Jennifer Harbury

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Despite the fanfare, the McCain bill banning cruel and degrading treatment is less a shot in the arm than a shot through the head. The bottom line? All forms of abuse are now illegal, but no torturers will go to prison. For survivors of U.S.-sponsored torture in Latin America, this "wink and a nod" approach gives a chilling sense of déjà vu.

(Torture, of course, is prohibited by our Constitution and treaties. Under 18 USC 2340, torture abroad is a felony. The statute's definition includes virtually all the techniques now used on detainees. War crimes trials are already required. The Administration has tried to sidestep this by insisting that waterboarding and other techniques are "merely" cruel and degrading but not torture. That is for the courts to decide. However, it is good that this second, lesser category is now also banned.)



Reprinted from the Minneapolis StarTribune

government's commission of ghastly international crimes that White House lawyers claim can be excused under the doctrine of necessity. ..."

What torture is alleged?

In Iraq, Afghanistan, Guantánamo and elsewhere, prisoners in U.S. custody have been hooded for long periods, chained for days to ceilings, floors, beds and railings, deprived of sleep, forced to stand or squat for hours, stressed with threats against family members, subjected to near drowning by "waterboarding," paraded and humiliated while naked, terrorized by un-muzzled police dogs, made to eat off the floor and temporarily paralyzed by injections. The force-feeding of hunger strikers at Guantánamo was called torture by 240 doctors who demanded it be halted in a letter to *The Lancet*.

On June 14, 2005, Senator Richard Durbin, D-Illinois, read on the floor of the U.S. Senate from an FBI memo that described the torture of a prisoner at Guantánamo who was chained to the floor for three days, and subjected to extreme heat and cold. Sen. Durbin said, "If I read this to you and did not tell you it was an FBI agent describing what Americans had done to prisoners in their control, you would most certainly believe this must have been done by Nazis, Soviets in their gulags, or some mad regime — Pol Pot or others — that had no concern for human beings."

Who's getting away with torture?

* Chief Warrant Officer Lewis Welshofer was freed by a military jury that had convicted him of homicide in the torture death of Iraqi Major General Abed Mowhoush. The General was killed after Welshofer stuffed his head first into a sleeping bag, beat him and threw himself on the man's chest while covering his mouth.

* Federal Judge David Trager dismissed a lawsuit against the United States brought by Maher Arar, a Canadian citizen who was kidnapped at Kennedy Airport in 2002, flown to Jordan and taken to a Syrian prison where he was kept in a rat-infested underground pit and tortured for 10 months. He was released without charges.

* Federal Judge Ricardo Urbina dismissed a lawsuit against Defense Secretary Donald Rumsfeld and others brought by four Guantánamo prisoners who claimed their torture and wrongful imprisonment were the result of official U.S. policy. Judge Urbina ruled that Rumsfeld *et al.* acted in their official capacity and thus were immune from prosecution.

* German law allows for individuals charged with war crimes to be investigated wherever they may be living. Nevertheless, Germany's attorney general declined to pursue charges, brought by the Center for Constitutional Rights, against Donald Rumsfeld, former CIA director George Tenet and eight other U.S. officials for war crimes in connection with torture at the Abu Ghraib prison in Iraq. — JML

Prison Sentences for Trespass at SOA

The activists below were convicted of petty misdemeanor trespass at the Army "School of Assassins" after Nov. 20th's 19,000-strong "Close the SOA" demonstration, the most well-attended in the campaign's 15-year history.

One month in prison:

Anika Cunningham, 26, Bowling Green, Ohio (\$500 fine)

Two months in prison:

Joanne Cowan, 56, Boulder, Colorado (no fine)

Sam Foster, 70, Mpls., Minn. (\$500 fine)

Michael Gayman, 26, Davenport, Iowa (\$500 fine)

Rita Hohenshell, 81, Des Moines, Iowa (no fine)

Dorothy Parker, 76, Chico, Calif. (no fine)

Judith Ruland, 47, Springfield, Mass. (\$500 fine)

Delmar Schwaller, 81, Appleton, Wisc. (no fine)

Three months in prison:

Buddy Bell, 23, Chicago, Illinois (\$500 fine)

Fred Brancel, 79, Madison, Wisc. (\$500 fine)

Robert Call, 72, Hasbrouck Heights, New Jersey (no fine)

Stephen Clemens, 55, Mpls., Minn. (\$500 fine)

Scott Dempsy, 30, Denmark, Wisc. (\$500 fine)

Joe DeRaymond, 55, Freemansburg, Penn. (\$500 fine)

Sarah Harper, 36, Emeryville, Calif. (\$500 fine)

Robin Lloyd, 67, Burlington, Vermont (\$500 fine)

Gail Phares, 66, Raleigh, North Carolina (no fine)

Don Nelson, 62, Summertown, Tennessee (no fine)

Donte Smith, 19, Washington, DC (\$500 fine)

Cheryl Sommers, 68, Berkeley, Calif. (\$500 fine)

David Sylvester, 54, Oakland, Calif. (\$1,000 fine)

Frank Woolever, 72, Syracuse, New York (no fine)

Six months in prison:

Ken Crowley, Washington, DC (\$1,000 fine)

Jane Hosking, 38, Luck, Wisc. (\$1,000 fine)

John LaForge, 50, Luck, Wisc. (\$1,000 fine)

Sr. Mary Dennis Lentsch, 69, Oak Ridge, Tenn. (no fine)

Edward "Naed" Smith, 38, Harrisburg, Penn. (no fine)

Fr. Louis Vitale, 73, San Francisco, Calif. (no fine)

Fr. Jerome Zawada, 68, Cedar Lake, Indiana (no fine)

Time served: (after 70+ days in county jail):

Priscilla Treska, 66, Cleveland, Ohio (no fine)

12 months probation:

Jamie Walters, 41, Columbia, Missouri (\$1,000 fine)

Charles Carney, 47, Kansas City, Kansas (\$500 fine)